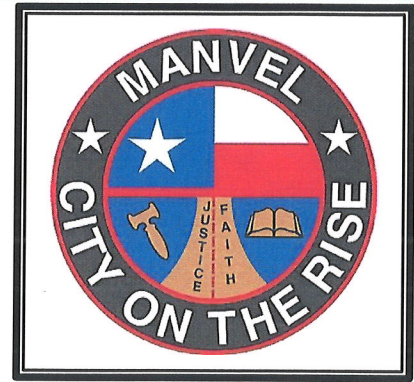


THE STATE OF TEXAS §
COUNTY OF BRAZORIA §
CITY OF MANVEL §

KEITH BONNER, COUNCIL PLACE 1
DAVID LANDS, COUNCIL PLACE 2
HARRY OPLIGER, COUNCIL PLACE 3
ED PERRY, COUNCIL PLACE 4
CRYSTAL SARMIENTO, COUNCIL PLACE 5
JEROME HUDSON, COUNCIL PLACE 6



DAN DAVIS, MAYOR
DAN JOHNSON, CITY MANAGER
TAMMY BELL, CITY SECRETARY



**NOTICE OF A SPECIAL CALLED
CITY COUNCIL MEETING
OF THE CITY OF MANVEL
May 13, 2025**

**NOTICE IS HEREBY GIVEN
5:00 P.M.**

Pursuant to Chapter 551, Title 5 of the Texas Government Code, the Texas Open Meetings Act, notice is hereby given that the Manvel City Council will convene a special meeting at the Manvel City Hall, located at **20031 Hwy 6, Manvel Tx 77578** for the purpose of discussing and if appropriate, take action with respect to the following items:

NOTE: The City Council of the City of Manvel reserves the right to discuss any items in Closed Session whenever authorized under the Texas Open Meetings Act, Chapter 551, of the Texas Government Code. The City Council may discuss the items on this agenda in any order.

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpreter services must be made 48 hours prior to this meeting. Please contact the City Secretary at 281-489-0630 X6 for further information.

CITY OF MANVEL MISSION STATEMENT

The City of Manvel is a safe and responsible community, embracing the values of our past, present, and future citizens.

Regular Session

Call To Order

Pledge

Pledge of Allegiance and Texas Pledge: "Honor the Texas flag; I pledge allegiance to thee Texas, one state under God, one and indivisible.

Public Comments: "Comment Card" Required

o Members of the public with business before the board, NOT scheduled on the agenda as a public hearing (that have submitted a public comment card) may have three (3) minutes to address the board. o The board may not participate in any discussion and cannot vote on the subject you present unless it is listed on the agenda as an action item

City Manager Update

Update on current events and city issues.

Consent Agenda

1. Approve the second and final reading of Ordinance 2025-O-14;
AN ORDINANCE AMENDING CHAPTER 77 "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF MANVEL, TEXAS, SAME BEING THE ZONING ORDINANCE OF THE CITY, BY AMENDING ARTICLE I. "IN GENERAL," SECTION 77-3.-- DEFINITIONS PERTAINING TO DEFINITIONS; BY AMENDING ARTICLE II. "DISTRICT REGULATIONS," SECTION. 77-44. – TREES, LANDSCAPING, FENCING, AND SCREENING PERTAINING TO TREE PRESERVATION; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000.00 PER DAY FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; AND PROVIDING FOR SEVERABILITY. *(Favorable recommendation forwarded by Parks and Recreation on 4/24/2025 and a Final Report recommending approval forwarded by PD&Z on 4/28/2025)*
2. Approve the second and final reading of Ordinance 2025-O-15;
AN ORDINANCE AMENDING CHAPTER 77 "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF MANVEL, TEXAS, SAME BEING THE ZONING ORDINANCE OF THE CITY, BY AMENDING ARTICLE II. "DISTRICT REGULATIONS," SECTION 77-50 "USES REQUIRING SPECIFIC USE PERMIT (SUP)" TO AMEND CERTAIN CONDITIONS REQUIRED FOR HOSPITALS AND OTHER HEALTH CARE USES TO BE CONSISTENT WITH STATE LAW; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000.00 PER DAY FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; AND PROVIDING FOR SEVERABILITY. *(Final report recommending approval forwarded by PD&Z on 4/28/2025)*
3. Approve the second and final reading of Ordinance 2025-O-16;
AN ORDINANCE AMENDING CHAPTER 77 "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF MANVEL, TEXAS, SAME BEING THE ZONING ORDINANCE OF THE CITY, BY AMENDING ARTICLE II. "DISTRICT REGULATIONS," SECTION 77-26 PERMITTED USES, BY ADOPTING THE 2022 VERSION OF THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) CODES THAT DETERMINE PERMITTED USES; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000.00 PER DAY FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; AND PROVIDING FOR SEVERABILITY. *(Final report recommending approval forwarded by PD&Z on 4/28/2025)*
4. Approve a License Agreement for Ingress and Egress between the City of Manvel and Noah D. Martini (Licensee) granting the right, privilege and license to use the ROW closed by Ordinance 2025-O-11 for ingress and egress to access Licensee's residence at 6202 Bissell Road, Manvel, TX 77578. (Amended from the original agreement approved by City Council on 4/7/2025).

Items Removed from Consent Agenda

Regular Agenda

1. Consideration and possible action to approve Resolution 2025-R-10;
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANVEL, TEXAS, CANVASSING THE RETURNS AND DECLARING THE RESULTS OF A GENERAL ELECTION HELD ON MAY 3, 2025, FOR THE PURPOSE OF ELECTING TWO COUNCILMEMBERS AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.
2. Issue Certificate of Election, Statement of Elected Officer, and Oath of Office to the declared candidate elect; Councilmember Place 4, Carmyn Robey-Robinson.
3. Consideration and possible action to approve on first reading, Ordinance 2025-O-19;
AN ORDINANCE ORDERING A RUNOFF ELECTION TO BE HELD IN THE CITY OF MANVEL, ON SATURDAY, JUNE 7, 2025, FOR THE PURPOSE OF ELECTING ONE COUNCILMEMBER FOR PLACE 6; ESTABLISHING OTHER PROCEDURES FOR CONDUCTING THE ELECTION; PROVIDING FOR THE INCORPORATION OF THE PREAMBLE; AND PROVIDING AN EFFECTIVE DATE.

Mayor and Council Comments

Update on current events and city issues.

Additionally, pursuant to Texas Government Code § 551.0415, City Council Members and city staff may make a report about items of community interest during a meeting of the governing body without having given notice of the report.

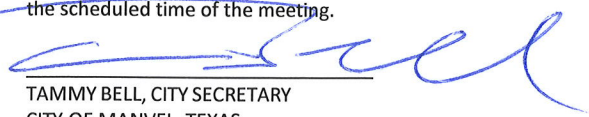
Items of community interest include:

- Expressions of thanks, congratulations, or condolence;
- Information regarding holiday schedules;
- An honorary or salutory recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutory recognition for purposes of this subdivision;
- A reminder about an upcoming event organized or sponsored by the governing body;
- Information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; and
- Announcements involving an imminent threat to the public health and safety of people in the municipality that has arisen after the posting of the agenda.

Adjourn

CERTIFICATION

I, Tammy Bell, City Secretary for the City of Manvel, do hereby certify that the foregoing Agenda of the Manvel City Council is true and correct and that I posted such notice on the bulletin board at the Manvel City Hall; a place convenient and readily accessible to the public May 09, 2025, in accordance with the Texas Open Meetings Act (Tex. Gov't. Code §551.001 et.seq). Said notice remained posted for at least 72 hours preceding the scheduled time of the meeting.


TAMMY BELL, CITY SECRETARY
CITY OF MANVEL, TEXAS



MANVEL CITY COUNCIL DATA SHEET

MEETING DATE: May 5, 2025

TOPIC: Text amendment to the *Manvel Code of Ordinances*, Chapter 77, *Zoning* (The Zoning Ordinance) to amend and include several requirements and provisions pertaining to landscaping and tree preservation. First of two readings of Ordinance No. 2025-O-14

BACKGROUND: Staff is presenting amendments to the zoning ordinance to amend and include several requirements and provisions pertaining to landscaping and tree preservation; conditions of SUP approval for medical and other personal care service uses; North American Industry Classification system (NAICS) code version update. This agenda item is to consider the amendment pertaining to landscaping and tree preservation.

Currently, the zoning ordinance does not include strong requirements for tree preservation. There is great interest amongst citizens and Council members in considering adoption of standards and requirements pertaining to Tree Preservation. Staff is also proposing some changes to the existing landscaping-related standards for new development. The proposed changes are based on research by staff and input from City Council members. The proposed changes include addition of definitions; prohibition on clear-cutting; preservation requirement for certain protected trees; tree removal permit requirement; criteria for tree removal, tree replacement requirements; tree preservation credits; removal of requirement to plant trees in the right-of-way; exemptions to tree preservation requirements; new tree planting requirements along street frontage, changes to parking lot planting requirements, and transitional buffer yard requirement between residential and non-residential uses.

The public hearing notice requirement for this proposed zoning amendment was met through the provisions of Section 211.007(d) of the Texas Local Government Code, which allowed a joint public hearing by Planning, Development, and Zoning Commission (PDZ) and the City Council in lieu of sending notices to each property owner within 200 feet, as mandated by the City of Austin V Acuna case.

At the 04.24.2025 Parks Board meeting, the Board recommended approval of the proposed amendment with a suggestion to include Pine trees as a protected species.

STAFF RECOMMENDATION: Staff is recommending approval of the proposed text amendment to the *Manvel Code of Ordinances*, Chapter 77, *Zoning* (The Zoning Ordinance) to amend and include several requirements and provisions pertaining to landscaping and tree preservation.

PD&Z RECOMMENDATION: PD&Z is forwarding a final report recommending approval of the proposed text amendment to the *Manvel Code of Ordinances*, Chapter 77, *Zoning* (The Zoning Ordinance) to amend and include several requirements and provisions pertaining to landscaping and tree preservation.

ATTACHMENTS: Redline version of the proposed amendment, Ordinance No. 2025-O-14 and Staff Report

FUNDING ISSUES

- ☒ **Not applicable**
☐ **Not budgeted**
☐ **Full amount already budgeted**
☐ **Funds to be transferred from Acct.#**

SUBMITTING STAFF MEMBER
Jose Abraham
Director of Development Services

FINANCE DIRECTOR APPROVAL _____
CITY MANAGER APPROVAL _____



NOTE: The motion to approve the first reading of the Ordinance excluded Pine Tree as a protected Tree. The proposed ordinance has been edited to remove Pine Tree from the list of protected tree species.



FINAL REPORT TO CITY COUNCIL

Zoning Text Amendment

Agenda of:	April 28, 2025	Initiated By:	Jose Abraham Director, Development Services
Subject:	Zoning Text Amendment (Sec. 77-3.- Definitions & Sec. 77-44. - Trees, landscaping, fencing and screening)	Presented By:	Jose Abraham Director, Development Services
Recommended Action:	Consideration and possible action to approve this proposed Zoning Text Amendment. (<u>First of two readings of Ordinance No. 2025-0-14</u>).		

SUMMARY

Currently, the zoning ordinance does not include strong requirements for tree preservation. There is great level of interest amongst citizens and Council members in considering adoption of standards and requirements pertaining to Tree Preservation. Staff is also proposing some changes to the existing landscaping-related standards for new development. The proposed changes are based on research by staff and input from City Council members. The proposed changes include addition of definitions; prohibition on clear-cutting; preservation requirement for certain protected trees; tree removal permit requirement; criteria for tree removal, tree replacement requirements; tree preservation credits; removal of requirement to plant trees in the right-of-way; exemptions to tree preservation requirements; new tree planting requirements along street frontage, changes to parking lot planting requirements, and transitional buffer yard requirement between residential and non-residential uses.

Staff Recommendation: APPROVAL

Parks & Recreation Board Recommendation: APPROVAL with inclusion of Pine Trees as a protected Species

PD&Z Recommendation: APPROVAL

EXHIBITS/ ATTACHMENTS

Redline version of Sec. 77-3.- *Definitions* & Sec. 77-44. - *Trees, landscaping, fencing and screening*, Ordinance No. 2025-0-14, and Public Hearing Notice.

PROPOSED AMENDMENT

Section 77-44 of the zoning ordinance provides requirements for development landscaping. Currently, the primary focus of this section is landscaping requirements for new development projects in the city. Tree preservation requirements are minimal and focus on trees located in the right-of-way (ROW). Retention of existing trees on sites proposed for development is mentioned more as a recommendation than a requirement. Seeing a great level of interest amongst citizens and city council for tree preservation, staff researched tree preservation ordinances adopted by other communities and worked closely with an informal City Council subcommittee to propose inclusion of tree preservation requirements to the zoning ordinance.

The proposed amendment includes the following important changes to Sec. 77-3.- *Definitions* & Sec. 77-44. - *Trees, landscaping, fencing and screening*:



1. **Definitions:** The definition section is amended to include definitions of new terminologies included in the amended section such as protected tree, non-protected trees, critical root zone, diameter at breast height, tree, tree survey, etc.
2. **Intent and applicability:** The section is amended to clearly indicate the overarching intent of the section and indicates that the tree preservation requirements only apply to City of Manvel City limits.
3. **Exemptions to Tree Preservation Requirements:** Exemptions to tree preservation requirements are clearly stated. Several exemptions are included to enable reasonable enforcement of the requirements. Please note that residential dwellings properties larger than 20 acres and properties for which a master plan, construction plan, or final plat has been approved is exempted. Other proposed exemptions pertain to non-protected trees and situations where removal of a protected tree is inevitable.
4. **Protected and Non-protected Trees:** The goal of the tree preservation requirement is not to preserve every single tree. Large mature trees of certain species and trees required by development standards, ROW trees, and existing trees that provide screening between residential and non-residential uses are considered protected.
5. **Tree Removal Permit:** The proposed amendment will establish prohibition of clear-cutting of trees for development and permitting requirement for tree removal. Permitting requirement includes submitting tree survey and preservation plan, tree protection standards for development projects, and a list of tree removal criteria for permit approval. The permitting process also allows for an appeal to City Council in situations where a proposed tree removal is denied.
6. **Tree Replacement Standards and Preservation Credits:** The proposed amendment includes requirements for tree replacement when a protected tree is removed. Additionally, provision for tree preservation credits to count towards development projects is included.
7. **Development Landscaping Requirements:** Current development landscaping standards require planting of trees in the ROW. The proposed amendment removes that requirement and prohibits the planting of trees in the ROW. Instead, the requirement is replaced by planting requirement on the property proposed for development along street frontage. The amendment also includes parking lot trees to be planted every 10 parking spaces instead of 5 spaces to ensure healthy growth of trees. The amendment also requires a minimum 9 feet X 18 feet planting island area for parking lot trees. Additional requirements are proposed to ensure that new development projects include a transitional landscape buffer between residential and non-residential land uses.

STAFF RECOMMENDATION

Staff is recommending approval of the proposed amendment to Sec. 77-3.- *Definitions* Sec. 77-44. - *Trees, landscaping, fencing and screening*, by adopting Ordinance No. 2025-0-14.

PARKS BOARD RECOMMENDATION

At the 04.24.2025 Parks Board meeting, the Board recommended approval of the proposed amendment with the inclusion of Pine trees as a protected species.



PD&Z DISCUSSION AND RECOMMENDATION

PD&Z Commission discussed this proposed text amendment at the April 28, 2025, meeting. PD&Z Commission is forwarding this final report recommending approval of the proposed amendment to Sec. 77-3.- *Definitions* & Sec. 77-44. - *Trees, landscaping, fencing and screening*, by adopting Ordinance No. 2025-O-14.

PUBLIC HEARING

The Notice of Public Hearing was published in the newspaper of general circulation. The public hearing notice requirement for this proposed zoning amendment was met through the provisions of Section 211.007(d) of the Texas Local Government Code, which allowed a joint public hearing by Planning, Development, and Zoning Commission (PDZ) and the City Council in lieu of sending notices to each property owner within 200 feet, as mandated by the City of Austin V Acuna case.

A PUBLIC HEARING WILL BE HELD JOINTLY BY MANVEL CITY COUNCIL AND THE MANVEL PLANNING, DEVELOPMENT & ZONING COMMISSION AT MANVEL CITY HALL, 20031 HIGHWAY 6, MANVEL, TEXAS, 77578 AT 6:00 P.M. ON MONDAY, APRIL 28, 2025, TO HEAR INPUT FROM THE PUBLIC REGARDING AN ORDINANCE OF THE CITY OF MANVEL, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF MANVEL, TEXAS, BY AMENDING CHAPTER 77 “ZONING”, TO AMEND AND INCLUDE SEVERAL REQUIREMENTS AND PROVISIONS PERTAINING TO LANDSCAPING AND TREE PRESERVATION; CONDITIONS OF APPROVAL OF SUP FOR MEDICAL AND OTHER PERSONAL CARE SERVICES RELATED USES; POSSIBLE ADOPTION OF REVISED NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) CODE; THE PROCESS FOR REZONING; AND POSSIBLE RECTIFICATION OF EXISTING TYPOGRAPHIC ERRORS. /S/ TAMMY BELL, CITY SECRETARY.

Sec. 77-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The word "building" shall include the meaning of the word "structure"; the word "lot" shall include the meaning of the word "plot"; and the term "used for" shall include the meaning of the terms "designed for" or "intended for."

Accessory use means a use of a building or land which serves an incidental function to the principal use of a building, structure, or land.

Administratively complete application means any application containing all the required documents listed on any application in the appropriate format, the correct number of copies, paid fees, and any required signatures when submitted to the city, in a final form to be deemed complete for processing.

Adult day care means a group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping management plan based on an intentionally structured relationship providing organization and stability.

Adult entertainment business shall have the same meaning as "sexually oriented business" as that term is defined in V.T.C.A., Local Government Code § 243.001 et seq., and shall include, but not be limited to, an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult tanning salon, adult theater, escort agency, nude modeling studio, sexual encounter center, or any other commercial enterprise, the primary business of which is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer. Such uses shall be allowed only as specifically authorized under the terms of this article. The determination of what constitutes an adult entertainment business shall be made by the police chief or his designee, and such determination shall be appealable to the zoning board of adjustment.

Alley means minor ways that are used primarily for vehicle service access to the back or the side of properties otherwise abutting a street.

Americans with Disabilities Act means a law enacted in 1990, which is intended to make American society more accessible to persons with disabilities.

Apartments means a structure containing three or more dwelling units with common walls, including units that are located one over the other.

Applicant means any developer that submits an administratively complete application.

Automobile/vehicle sales and rentals means a business which provides for the sale or rental of new or used automobiles and other vehicles, including automobiles, trailers, recreational vehicles, travel trailers, water craft and other similar land or water-form vehicles, but shall not include auto or motor vehicle repair work, except minor reconditioning of automobiles or motor vehicles to be displayed, sold or rented on the premises; provided, however, such term shall not include the sale or rental of salvaged parts, nor shall it include the storage of either new or used automobiles or motor vehicles that are not on display or for sale or rent.

Bar/lounge means a place of business whose revenues from mixed drink liquor service are more than 20 percent and whose revenues from food service are less than 80 percent of the total gross revenues of the establishment.

Building, accessory or structure means a structure detached from a principal building and located on the same lot and incidental and subordinate to the principal building or use.

City means the City of Manvel, Texas.

Community fence means a fence located at the perimeter of a residential neighborhood, visible to the public and maintained by a home owners association or municipal utility district. Residential fences owned and maintained by an individual are not considered community fence.

Council means the city council of the city.

Corner lot side yard setback means the open space extending from the front yard to the rear yard and lying between the side lot line adjacent to the public right of way or easement and the closest point of the building or structure on a lot at the junction of and abutting two or more intersecting streets.

Critical Root Zone means the area around a tree's trunk where the most vital roots are located, generally measured 5 feet beyond the outer base of the branching system, requiring protection from disturbance during construction or development.

Developer means any person or entity that develops land within the city. This term shall be synonymous with the term "subdivider" in cases where the subdivision of land is involved.

Development plat means a plan for a development project that is not part of and does not require the subdivision of property.

Diameter at Breast Height (DBH) means the diameter of the tree trunk at 4.5 feet above ground.

Family means two or more persons related by blood, marriage, adoption, or guardianship living together as a single housekeeping unit with a single kitchen facility. The term "single kitchen facility" shall not exclude one outdoor kitchen facility per single housekeeping unit with one kitchen.

Fence means a constructed vertical structure, barrier or partition of any material or combination of materials erected to enclose, screen, or separate outdoor areas, and which has no roof or overhead covering. A masonry wall with a foundation serving the purpose of enclosing, screening, or separating outdoor areas is considered a fence.

Front of building means the part of side which contains the principal entrance of the side adjacent to a public roadway.

Game-room means a business or commercial establishment or building or location wherein machines or apparatus may be played or operated by the insertion of a coin or slug and on which games or tests of skill, chance or ability are played, including pinball machines, and any machine initiating games of sport, shooting or guiding objects, or any machine designed for amusement or relaxation, but not including machines for vending food, drink and tobacco products, music playing or recording or apparatus commonly known as kiddie rides.

Garage means an accessory building or a part of a main building comprised of a minimum of 200 square feet, enclosed on all sides, with an overhead door, and capable of enclosing one or more vehicles.

Garage sales, also referred to by such names as "back yard sale," "yard sale," or "porch sale," shall mean a sale or an offer for sale of miscellaneous items to the general public, upon residential property not otherwise being used for commercial purposes (see section 77-33(c)).

Gross square feet means the entire floor area of a building, including uninhabitable space such as bathrooms, closets, halls, and similar areas.

Guest quarters means an attached or detached building or secondary living area of residential use that provides living quarters for guest of the occupants of the principal residence, and:

- (1) Contains no kitchen or cooking facility;
- (2) Is clearly subordinate and incidental to the principal residence on the same building site; and
- (3) Is not rented or leased, whether compensation be direct or indirect.

Home business means a business operation that takes place in a home.

HUD-Code manufactured home means a structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width and 40 body feet or more in length, or, when erected on-site is 320 or more square feet and which is built on a permanent chassis and designed to be used as a single-family dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems.

Legal nonconforming land use means a land use that lawfully existed immediately prior to the effective date of these regulations and not listed as a permitted use in the zoning district in which it is located.

Legal nonconforming structure means a structure that was lawfully existing prior to the effective date of these regulations, but as of the effective date of these regulations, the site of the use, the structure in which the use is situated, does not comply with these regulations.

Lot means a physically undivided tract or parcel of land having frontage on a public or private street, which is, or in the future may be offered for sale, conveyance, transfer or improvement, and which is designated as a separate and distinct tract and identified by numerical or letter identification on a duly and properly recorded subdivision plat.

Lot, tract, or parcel means a designated area of land established by a properly recorded subdivision plat or otherwise permitted by law to be separately owned, used, developed, or built upon.

Lot line means the boundary of a lot separating it from an abutting lot.

Mobile home or manufactured home means a structure constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width and 40 body feet or more in length, or, when erected on-site is 320 or more square feet and which is built on a permanent chassis and designed to be used as a single-family dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems.

Non-Protected Tree means any tree that is not established as a protected tree or is exempt from the provisions of Section 77-44 (B) of the city of Manvel Zoning Ordinance.

Off-street parking means a concrete parking surface other than a street or alley accessible from an approved driveway approach and upon which vehicles may be parked.

Open-planned unit development plan means a development plan for a project located within the open-planned unit development district.

Parking aisle means the area of a parking lot or off-street parking area which provides vehicular access to parking spaces (stalls). The term "parking aisle" does not include the words "driveway" or "access point".

Parking space means an area designated for the parking of motor vehicles, and connected to an approved driveway approach, street, parking aisle, access easement, or other accessway.

Patio home/zero lot line home means a single-family home built on a separate lot with building setbacks on the front, rear and one side.

Planned unit development plan means a development plan for a project located within the planned unit development district.

Planning commission means a commission appointed by the council that is responsible for certain planning and zoning items, as provided in the zoning ordinance and applicable state law.

Plat means an instrument prepared by a registered professional land surveyor in conformity with the provisions of chapter 62, Subdivisions, used to describe subdivided land, with ties to permanent landmarks or monuments, approved by the city or a governmental entity with jurisdiction of the land in accordance with V.T.C.A., Local Government Code § 212.023, and recorded in the Brazoria County Property Records.

Protected Tree means any tree that is established as a protected tree within Section 77-44 of the City of Manvel Zoning Ordinance.

Principal building or use means the primary use and chief purpose of a premises or building.

Restaurant means a place of business whose revenues from food sales are 80 percent or more and whose revenues for mixed drink liquor service are 20 percent or less.

Rot board means a horizontal board installed along the bottom of the fence panel which runs along the base of the entire fence panel for a finished look and added protection. Rot boards are also commonly known as base-boards and kick-boards.

Setback means a minimum distance that is required from a lot line to a building or structure.

Single-family residence means a residence that is to be occupied by only one family.

Sight distance triangle means the triangle formed on any corner lot measured from the point of intersection of the front and exterior side lot lines a distance of 25 feet along said front and side lot lines and connecting the points so established to form a sight triangle on the area of the lot adjacent to the street intersections. Except for single-family residential accessways, a sight triangle at the intersection of a public street and a private access way shall have sides of 15 feet along the accessway and 25 feet along the public street. In order to minimize sight obstructions, no parking, wall, fence, sign, structure or any plant growth other than grasses shall be placed or maintained within the sight distance triangle so as not to impede vision between a height of two feet six inches, and ten feet above the center line grades of the intersecting streets and/or drives.

State means the State of Texas.

Structure means anything constructed or erected with a fixed location upon, under, or above the ground or attached to something having a fixed location on the ground.

Tavern means a place of business, which includes the sale of beer and wine beverages, but does not provide mixed drink liquor sales.

Telecommunications means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the content of the information as sent and received.

Top cap is a horizontal element of a wood fence included to cover the top end of pickets and posts. A privacy fence with a top cap is commonly referred to as a cap and trim fence.

Tower or tower structure means a fixed, freestanding or guyed, uninhabitable structure, not designed as a shelter or to be occupied for any use. This definition includes, but is not limited to, any such structure supporting antennae that transmit or receive any portion of the electromagnetic spectrum of radio waves. The following are by way of example but not limitation, towers or tower structures: guyed or freestanding monopole structures, lattice or open framed structures, antennae sports, water towers, and other similar self-supporting, trussed, or open framed structures.

Tree means any woody perineal plant with a single stem or trunk, typically supporting branches and leaves.

Tree Survey means an on-the-ground survey drawing containing the location of the trees, their circumference, type (species) and critical root zone limits.

Tree Preservation Plan means a plan that identifies trees being preserved on a site proposed for development and shows details of tree protection and preservation measures being taken during construction activity.

Zoning board of adjustment means a board appointed by the council that is responsible for certain zoning items, as provided in the zoning regulations and applicable state law.

Zoning official means the person appointed by council to administer and enforce the zoning regulations of the city.

(Ord. No. 2020-O-15, § 2, 10-19-2020; Ord. No. 2023-O-40, § 2, 12-4-2023)

Sec. 77-44. Trees **Preservation, landscaping, fencing and screening.**

(A) *Intent and Purpose:* Certain species of mature trees greatly contribute to the image, aesthetics, and identity of the City of Manvel. Development will invariably result in the removal of trees, however, uncontrolled and indiscriminate destruction of trees would detrimentally impact the aesthetic value and enjoyment of the natural environment. Protection and preservation of mature trees along with planting requirements for new development will benefit citizens by maintaining a positive image of the city as a place to live and locate a business. These standards and regulations are intended to:

1. Prohibit the indiscriminate clearing of property and promoting responsible design decisions that will preserve as many protected trees as possible;
2. Protect the natural ecological environmental and aesthetic qualities of the city;
3. Establish permitting process and standards required to preserve protected trees during construction; and
4. Establish planting, screening, and buffering requirements for new development.

(B) *Tree Preservation:* Any tree that qualifies as a protected tree as identified by this ordinance shall be preserved unless the removal is unavoidable based on the Tree removal criteria in Section 77-44 (B) 6.

1. *Applicability:* Tree preservation requirements only apply to City of Manvel city limits.
2. *Exemptions:* The following are exempt from tree preservation requirements:
 - a. Individual lots and lots of record that are less than twenty (20) acres in lot size that are existing as single-family detached or attached dwellings;
 - b. Non-protected trees;
 - c. Any tree damaged or dead by natural disasters or by disease/ rot and deemed to be a hazard by the Zoning Official;
 - d. Any tree that requires removal by Public works, Fire, Police, or other emergency services personnel actively engaged in fighting a fire or other emergency services response;
 - e. Any tree that requires removal or trimming by the Texas Department of Transportation or other state agency with authority, a railroad company, or any public or private utility company with a state or city franchise agreement, where the tree was trimmed or removed according to the entity's adopted tree trimming/removal policy or practices.
 - f. Any tree planted, grown and/or held for sale as part of a licensed nursery / greenhouse, retail or wholesale business;
 - g. Properties for which construction plans, Final plats have been approved prior to the adoption of this ordinance;
 - h. Properties identified on a Master Plan approved by City Council prior to the adoption of this ordinance;
3. *Protected Trees:*

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- a. Any tree with a diameter at breast height (DBH – 4.5 feet) of 19 inches or a circumference of 60 inches, or more, identified in the list of protected tree species in Section 77-44 (B) 4.
 - b. Any tree shown on an approved landscape plan that is necessary to meet the development standards of the zoning ordinance (Chapter 77 of the Manvel, Code of Ordinances) or to meet a condition of approval of the development to which the landscape plan applies.
 - c. Any tree identified in the list of protected tree species located in the public right-of-way or a property owned by the city of Manvel.
 - d. A tree of any size or species that provides screening between commercial and residential uses or zoning districts.
4. *List of Protected Tree Species:*
- a. Oak (all variety);
 - b. Pecan
 - c. Magnolia
 - d. Elm
5. *Clear Cutting Prohibited:* Clear cutting of trees on undeveloped land is prohibited. Parcels proposed for development that include stands of trees shall not be clear cut in preparation for development. Development shall be designed to, completely, or partially preserve existing stands of trees unless:
- a. No reasonable alternative design at the same density and intensity could be approved.
 - b. Relocation of the protected trees to another location on-site or within the City is not practical or economically feasible as certified by an arborist or a landscape professional.
6. *Tree Removal Permit Required:*
- a. No person shall cut down, destroy, remove, move, or effectively destroy through damaging or encroaching into the critical root zone of any protected tree on any public or private property unless a valid tree removal permit has been issued based on the tree removal criteria provided in Section 77-44 (B) 9.
 - b. Before a permit can be issued, a tree survey shall be submitted as set out in Section 77-44 (B) 7.
 - c. The Zoning Official or designee may require an applicant to provide aerial photograph interpretation of the site and/or additional data for preliminary analysis of large-scale development projects involving tree removal.
 - d. For applications that do not meet the Tree Removal Criteria (below), the applicant shall have the right to appeal to the Manvel City Council. An appeal to the Manvel City Council must be filed within sixty (60) days after receiving notice of permit denial. A final decision on the application shall be made by City Council upon receiving a recommendation from City of Manvel Parks Board.
 - e. Where the dangerous condition of a protected tree requires its immediate removal to protect against a serious and immediate risk to health, safety or property, a property owner may remove a protected tree without first obtaining a permit. However, within fourteen (14) calendar days after removing the tree, the property owner must apply for a tree removal permit and file a written statement describing the protected tree by size, species, and location and explaining the emergency conditions that required its immediate removal.
 - f. A tree removal permit is not required for the removal of a non-protected tree.

7. *Tree Survey and Preservation Plan Required:*

- a. Generally, all applications for a tree removal permit must include information pertaining to specifications and location of all protected trees; identification of protected trees to be removed and preserved; reason for tree removal; details and specifications of proposed tree replacement; tree preservation plan showing tree protection measures during construction activities, and any other relevant details.
- b. For removal of one or more protected trees from a property proposed for construction, a property owner must submit a written application accompanied by a current tree survey and a tree preservation plan prepared by an arborist or a landscape professional.
- c. For removal of an individual protected tree from a property not proposed for construction, a property owner must file a written application accompanied by a survey, map, or plat of the property showing the location, species, and size of the protected tree that is to be removed and explaining the reason that removal is desired in lieu of a tree survey and preservation plan.
- d. The City may accept a partial tree survey in lieu of a full tree survey if the Zoning Official finds that protected trees only exist on a portion of the site.

8. *Tree Protection Requirement:* All existing trees intended to be made part of a proposed development shall be protected during construction activities. The following minimum standards apply to tree protection during construction activities:

- a. Barricades made of wood or fencing material, not less than 3 feet in height with horizontal and vertical structural members shall be installed at the critical root zone.
- b. In situations where a tree remains in the immediate area of intended development activity where tree protection fence is not feasible, the tree shall be protected by enclosing the entire circumference of the tree's trunk with fence pickets, at least six feet high, banded by wire or other means that does not damage the tree.
- c. Barricades shall be removed only to prepare the development site for final landscaping.
- d. Parking or storing vehicles, equipment or materials within critical root zone is prohibited.
- e. Protected trees shall be pruned only for clearance, dead, or hazard branches. Corrective pruning should occur after construction is complete.

9. *Tree Removal Criteria:* No individual protected tree shall be removed unless it meets one or more of the following criteria based on which a tree removal permit is issued:

- a. The tree is dead or infected with an epidemic insect or disease where a recommended control is not applicable, and removal is the recommended practice to prevent transmission.
- b. The tree poses an extreme public nuisance because of its species, size, location, or condition.
- c. The tree poses a severe safety hazard that cannot be corrected by pruning, transplanting, or other treatments.
- d. The tree severely interferes with the growth and development of a more protected desirable tree.
- e. The aesthetic value of the tree is so low or negative that the site is visually enhanced by the tree's removal.
- f. The tree is in, and within 10 feet of, an approved building footprint and results in a dangerous condition.

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- g. The tree is located within six feet of a utility easement, and the tree would interfere with the use of the easement.
 - h. On properties proposed for development, no reasonable alternative site design at the same density and intensity could be approved and relocation of the protected tree to another location on-site or within the City is not practical or feasible for the survival of the tree.
 - i. The tree has a negative impact on the aesthetics or visibility of an existing or proposed development in a manner that the intended purpose of the development cannot be achieved.

10. Tree Replacement Requirement and Standards:

- a. If a protected tree is removed in violation of this ordinance, it shall be replaced in accordance with the requirements of this section.
- b. If a protected tree is removed with a valid tree removal permit, it shall be replaced in accordance with the requirements of this section. Tree replacement requirement for removal of individual protected trees with a valid tree replacement permit may be modified or waived when a replacement tree can potentially result in hazardous and unsafe conditions due to existing development or insufficient area for healthy growth of existing or replacement trees, as determined by the City Council based on recommendation from the City of Manvel Parks Board.
- c. On properties proposed for development, replacement trees shall be counted towards the landscaping requirements of the zoning ordinance based on its location.
- d. Tree replacement shall be based on the following standards:
 - 0-10 inches DBH – One 3-inch or more
 - 10-15 inches DBH – One equivalent caliper or Two 3-inch caliper
 - 15–19 inches DBH - One equivalent caliper or Four 3-inch caliper
 - 19-inch DBH or more - One equivalent caliper or Six 3-inch caliper.
- e. On properties proposed for development, replacement trees shall be installed as part of site development.
- f. On properties not proposed for development, replacement trees shall be installed within 30 days of removal.

- 11. Tree Preservation Credits:** On a site proposed for development, preservation of protected trees specified in Section 77-44 (B) 3 (a) may qualify for tree preservation credits towards development landscaping requirement if the site development plans indicate compliance with tree protection standards of Section 77-44 (B) 8. Tree preservation credit shall not be used to substitute for tree planting requirement of Section 77-44 (C) 6. The tree preservation credit shall be based on the following standards:

Total Number of Trees Preserved	Tree Preservation Credit per tree
3 or less trees	Five (5) 2½ inch caliper per tree
4 or more trees	Eight (8) 2½ inch caliper

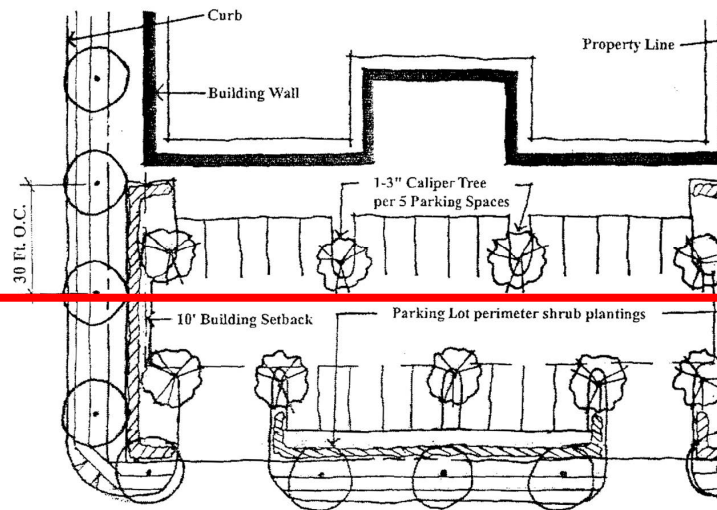
(C) Development Landscaping: The following regulations shall apply to all new land development projects, except new single- family residential:

~~(1) —Trees.~~

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- ~~a. — *Preservation required of existing street trees.* Trees located in any public street right-of-way must be preserved and may not be removed without prior written approval of the zoning official.~~
 - ~~b. — *Retention of existing trees.* Where appropriate, new development should be located to take advantage of existing mature trees. The protection and retention of existing trees which are at least 1½ inches in caliper shall be credited to the tree planting requirements except for street tree planting requirements.~~
 - ~~c. — *Protection of existing trees.* Trees that are to be protected and retained shall be protected during construction. The tree protection area shall not be used for the parking or storage of any soil, vehicles, equipment, or materials. No waste or surplus products of any nature shall be disposed of within or near the tree preservation area. Grade changes around existing trees are limited to three inches.~~
 - ~~d. — *Planting of new street trees.* Street trees shall be reasonably regularly spaced with at least one tree for each 30 feet of street frontage for each street on which the property fronts.~~
 - ~~1. — *Street trees shall be planted within the right-of-way line with adjustments in spacing allowed for driveways, streetlights, visibility triangles, transit shelters, and utility or traffic control appurtenances. If sufficient street trees to meet the requirement already exist along the frontage of a site, no additional trees are required, provided they are protected and retained in accordance with these regulations.*~~
 - ~~2. — *The minimum planting size for street trees is 1½ inches in caliper measured at the base of the tree.*~~
- 1. *Planting of new yard trees.*
 - a. New trees shall be planted at the rate of one (1) tree for each thirty (30) feet of street frontage along front and street side yards.
 - b. The minimum planting size for yard trees is 2½ inches in caliper measured at the base of the tree.
 - c. No new trees shall be planted in public rights-of-way, utility easements, or existing access easements.
 - d. For new development, if planting yard trees is not possible due to existing easements along the street frontage, additional parking lot trees at the rate of one (1) tree for each five (5) parking spaces shall be planted. Such trees shall be a minimum of 12½ inches in caliper measured at the base of the tree.
 - e. 2. *Planting of trees and shrubs for new parking lots.* Trees for new parking lots shall total at least one tree for each ~~five~~ ten parking spaces and at the end of each parking row. Trees and landscaping must be located within the parking area in ~~areas~~ 9 feet X 18 feet planting islands protected by a curb or other vehicle obstruction. Such trees shall be a minimum of ~~12~~½ inches in caliper measured at the base of the tree. Shrub plantings shall be placed along the perimeter of a parking lot in an amount to provide a visible screen for the parking lot. The shrubs must be maintained at a ~~maximum~~ height of 30 to 36 inches for safety and visibility purposes.

Example:

~~REQUIRED STREET AND PARKING LOT TREES AND SHRUBS~~



Scale: 1 inch = 30 feet

~~(2)~~ 3. *Maintenance of landscaping.* All landscaping must be perpetually maintained in good health by the property owner on which the landscaping lies or by the adjacent property owner. In the case of street trees planted within the right-of-way, the owner of the adjacent property shall have the responsibility for tree maintenance. Trees lost for any reason, with the exception of street or utility work, shall be replaced by the property owner within six months. Replacement trees must be a minimum of three-inch caliper. The responsibility for replacement of trees removed because of natural disaster, vehicular accident, or other similar circumstance, is that of the adjacent property owner regardless of whether that owner is reimbursed by the responsible party.

~~(3)~~ 4. *Planting areas.*

- a. *Site areas.* All site areas not covered by buildings or paving shall be planted with trees, shrubs, grass, ground covers or other plant materials. Special ground covering materials are permissible in playgrounds or active sports areas or other areas as determined by the city zoning official.
- b. *Landscape plans.* Landscape plans shall be submitted to the city zoning official at the time of submittal of all other construction plans for all new construction. In the open-planned unit development district landscape plans shall be submitted to the city zoning official prior to consideration of the plan by the planning commission.
- c. *Irrigation.* All planting areas shall be irrigated. Irrigation plans must be submitted with the landscaping plans and all irrigation materials shall be installed prior to occupancy of the building.

~~(4)~~ 5. *Land uses requiring Required landscape screening and/or fencing.*

- a. *Air conditioning and other mechanical equipment.* Ground mounted mechanical equipment of all types must be fenced or screened with shrub planting from pedestrian view. This requirement does not apply to traffic control equipment boxes, telecommunication housings (smaller than three feet by six feet) or similar public facilities.
- b. *Utility facilities.* All utility facilities must be screened from pedestrian view subject to a screening and buffering plan approved by the zoning official.
- c. *Parking lots.* All parking lots for nonresidential uses must be landscaped according to these regulations.

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- d. *Drive-through facilities.* Where drive-through lanes or stacking bays and/or service windows are within 50 feet of a side or rear property line that adjoins an existing residential use, a six foot high wooden fence must be constructed and retained adjacent to the property line.

6. Transitional buffer yard between residential and non-residential uses.

- a. Non-residential development shall provide a ten (10) foot-wide landscape buffer yard when abutting an existing residential development or undeveloped residential zoning district. The buffer yard shall include one (1) tree per thirty (30) linear feet. A screening fence in accordance with Section 77-43 is required when a fence is not already present on the abutting residential development or undeveloped residentially zoned land.
- b. New master-planned residential development shall provide a ten (10) foot-wide landscape buffer yard when abutting undeveloped properties zoned for non-residential uses. The buffer yard shall be maintained by the Homeowner's Association and shall include one (1) tree per thirty (30) linear feet. A screening fence in accordance with Section 77-43 is required when a fence is not already present on the abutting property zoned for non-residential uses.

(Ord. No. 2020-O-15, § 3, 10-19-2020; Ord. No. 2023-O-40, § 3, 12-4-2023)

ORDINANCE NO. 2025-O-14

AN ORDINANCE AMENDING CHAPTER 77 “ZONING” OF THE CODE OF ORDINANCES OF THE CITY OF MANVEL, TEXAS, SAME BEING THE ZONING ORDINANCE OF THE CITY, BY AMENDING ARTICLE I. “IN GENERAL,” SECTION 77-3.-- DEFINITIONS PERTAINING TO DEFINITIONS; BY AMENDING ARTICLE II. “DISTRICT REGULATIONS,” SECTION. 77-44. – TREES, LANDSCAPING, FENCING, AND SCREENING PERTAINING TO TREE PRESERVATION; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000.00 PER DAY FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; AND PROVIDING FOR SEVERABILITY.

WHEREAS, the City Council of the City of Manvel, Texas, determines it in the best interest of the health, safety, and welfare of the citizens of the City of Manvel to amend the Zoning Ordinance; and

WHEREAS, the amendments generally include the addition of certain definitions and new provisions governing tree preservation; and

WHEREAS, the Planning Commission (PD&Z) has issued its report regarding the amendments to the Zoning Ordinance herein; and

WHEREAS, the Planning Commission (PD&Z) and City Council have conducted, in the time and manner required by law and the Zoning Ordinance of the City, a public hearing on such amendment to the zoning ordinance and both entities find that the adoption of this ordinance is in the best interest of the citizens of Manvel; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANVEL, TEXAS:

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. Chapter 77 of the Code of Ordinances of the City of Manvel, and same also being the Zoning Ordinance of the City, is hereby amended by amending Article I. "In General," Section 77-3 to read and provide as follows:

"Chapter 77 - ZONING

ARTICLE I. IN GENERAL

...

Sec. 77-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The word "building" shall include the meaning of the word "structure"; the word "lot" shall include the meaning of the word "plot"; and the term "used for" shall include the meaning of the terms "designed for" or "intended for."

Accessory use means a use of a building or land which serves an incidental function to the principal use of a building, structure, or land.

Administratively complete application means any application containing all the required documents listed on any application in the appropriate format, the correct number of copies, paid fees, and any required signatures when submitted to the city, in a final form to be deemed complete for processing.

Adult day care means a group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping management plan based on an intentionally structured relationship providing organization and stability.

Adult entertainment business shall have the same meaning as "sexually oriented business" as that term is defined in V.T.C.A., Local Government Code § 243.001 et seq., and shall include, but not be limited to, an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult tanning salon, adult theater, escort agency, nude modeling studio, sexual encounter center, or any other commercial enterprise, the primary business of which is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer. Such uses shall be allowed only as specifically authorized under the terms of this article. The determination of what constitutes an adult entertainment business shall be made by the police chief or his designee, and such determination shall be appealable to the zoning board of adjustment.

Alley means minor ways that are used primarily for vehicle service access to the back or the side of properties otherwise abutting a street.

Americans with Disabilities Act means a law enacted in 1990, which is intended to make American society more accessible to persons with disabilities.

Apartments means a structure containing three or more dwelling units with common walls, including units that are located one over the other.

Applicant means any developer that submits an administratively complete application.

Automobile/vehicle sales and rentals means a business which provides for the sale or rental of new or used automobiles and other vehicles, including automobiles, trailers, recreational vehicles, travel trailers, water craft and other similar land or water-form vehicles, but shall not include auto or motor vehicle repair work, except minor reconditioning of automobiles or motor vehicles to be displayed, sold or rented on the premises; provided, however, such term shall not include the sale or rental of salvaged parts, nor shall it include the storage of either new or used automobiles or motor vehicles that are not on display or for sale or rent.

Bar/lounge means a place of business whose revenues from mixed drink liquor service are more than 20 percent and whose revenues from food service are less than 80 percent of the total gross revenues of the establishment.

Building, accessory or structure means a structure detached from a principal building and located on the same lot and incidental and subordinate to the principal building or use.

City means the City of Manvel, Texas.

Community fence means a fence located at the perimeter of a residential neighborhood, visible to the public and maintained by a Home Owners Association or Municipal Utility District. Residential fences owned and maintained by an individual are not considered community fence.

Council means the city council of the city.

Corner lot side yard setback means the open space extending from the front yard to the rear yard and lying between the side lot line adjacent to the public right of way or easement and the closest point of the building or structure on a lot at the junction of and abutting two or more intersecting streets.

Critical Root Zone means the area around a tree's trunk where the most vital roots are located, generally measured five feet beyond the outer base of the branching system, requiring protection from disturbance during construction or development.

Developer means any person or entity that develops land within the city. This term shall be synonymous with the term "subdivider" in cases where the subdivision of land is involved.

Development plat means a plan for a development project that is not part of and does not require the subdivision of property.

Diameter at Breast Height (DBH) means the diameter of the tree trunk at 4.5 feet above ground.

Family means two or more persons related by blood, marriage, adoption, or guardianship living together as a single housekeeping unit with a single kitchen facility. The term "single kitchen facility" shall not exclude one outdoor kitchen facility per single housekeeping unit with one kitchen.

Fence means a constructed vertical structure, barrier or partition of any material or combination of materials erected to enclose, screen, or separate outdoor areas, and which has no roof or overhead covering. A masonry wall with a foundation serving the purpose of enclosing, screening, or separating outdoor areas is considered a fence.

Front of building means the part of side which contains the principal entrance of the side adjacent to a public roadway.

Game-room means a business or commercial establishment or building or location wherein machines or apparatus may be played or operated by the insertion of a coin or slug and on which games or tests of skill, chance or ability are played, including pinball machines, and any machine initiating games of sport, shooting or guiding objects, or any machine designed for amusement or relaxation, but not including machines for vending food, drink and tobacco products, music playing or recording or apparatus commonly known as kiddie rides.

Garage means an accessory building, or a part of a main building comprised of a minimum of 200 square feet, enclosed on all sides, with an overhead door, and capable of enclosing one or more vehicles.

Garage sales, also referred to by such names as "back yard sale," "yard sale," or "porch sale," shall mean a sale or an offer for sale of miscellaneous items to the general public, upon residential property not otherwise being used for commercial purposes (see [section 77-33\(c\)](#)).

Gross square feet means the entire floor area of a building, including uninhabitable space such as bathrooms, closets, halls, and similar areas.

Guest quarters means an attached or detached building or secondary living area of residential use that provides living quarters for guest of the occupants of the principal residence, and:

- (1) Contains no kitchen or cooking facility;
- (2) Is clearly subordinate and incidental to the principal residence on the same building site; and
- (3) Is not rented or leased, whether compensation be direct or indirect.

Home business means a business operation that takes place in a home.

HUD-Code manufactured home means a structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width and 40 body feet or more in length, or, when erected on-site is 320 or more square feet and which is built on a permanent chassis and designed to be used as a single-family dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems.

Legal nonconforming land use means a land use that lawfully existed immediately prior to the effective date of these regulations and not listed as a permitted use in the zoning district in which it is located.

Legal nonconforming structure means a structure that was lawfully existing prior to the effective date of these regulations, but as of the effective date of these regulations, the site of the use, the structure in which the use is situated, does not comply with these regulations.

Lot means a physically undivided tract or parcel of land having frontage on a public or private street, which is, or in the future may be offered for sale, conveyance, transfer or improvement, and which is designated as a separate and distinct tract and identified by numerical or letter identification on a duly and properly recorded subdivision plat.

Lot, tract, or parcel means a designated area of land established by a properly recorded subdivision plat or otherwise permitted by law to be separately owned, used, developed, or built upon.

Lot Line means the boundary of a lot separating it from an abutting lot.

Mobile home or manufactured home means a structure constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width and 40 body feet or more in length, or, when erected on-site is 320 or more square feet and which is built on a permanent chassis and designed to be used as a single-family dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems.

Non-Protected Tree means any tree that is not established as a protected tree or is exempt from the provisions of Section 77-44 (B) of the city of Manvel Zoning Ordinance.

Off-street parking means a concrete parking surface other than a street or alley accessible from an approved driveway approach and upon which vehicles may be parked.

Open-planned unit development plan means a development plan for a project located within the open-planned unit development district.

Parking aisle means the area of a parking lot or off-street parking area which provides vehicular access to parking spaces (stalls). The term "parking aisle" does not include the words "driveway" or "access point".

Parking space means an area designated for the parking of motor vehicles, and connected to an approved driveway approach, street, parking aisle, access easement, or other accessway.

Patio home/zero lot line home means a single-family home built on a separate lot with building setbacks on the front, rear and one side.

Planned unit development plan means a development plan for a project located within the planned unit development district.

Planning commission means a commission appointed by the council that is responsible for certain planning and zoning items, as provided in the zoning ordinance and applicable state law.

Plat means an instrument prepared by a registered professional land surveyor in conformity with the provisions of [Chapter 62](#), Subdivisions, used to describe subdivided land, with ties to permanent landmarks or monuments, approved by the city or a governmental entity with jurisdiction of the land in accordance with V.T.C.A., Local Government Code § 212.023, and recorded in the Brazoria County Property Records.

Principal building or use means the primary use and chief purpose of a premises or building.

Protected Tree means any tree that is established as a protected tree within Section 77-44 of the City of Manvel Zoning Ordinance.

Restaurant means a place of business whose revenues from food sales are 80 percent or more and whose revenues for mixed drink liquor service are 20 percent or less.

Rot board means a horizontal board installed along the bottom of the fence panel which runs along the base of the entire fence panel for a finished look and added protection. Rot Boards are also commonly known as baseboards and kickboards.

Setback means a minimum distance that is required from a lot line to a building or structure.

Single-family residence means a residence that is to be occupied by only one family.

Sight distance triangle means the triangle formed on any corner lot measured from the point of intersection of the front and exterior side lot lines a distance of 25 feet along said front and side lot lines and connecting the points so established to form a sight triangle on the area of the lot adjacent to the street intersections. Except for single-family residential accessways, a sight triangle at the intersection of a public street and a private access way shall have sides of 15 feet along the accessway and 25 feet along the public street. In order to minimize sight obstructions, no parking, wall, fence, sign, structure or any plant growth other than grasses shall be placed or maintained within the sight distance triangle so as not to impede vision between a height of two feet six inches, and ten feet above the center line grades of the intersecting streets and/or drives.

State means the State of Texas.

Structure means anything constructed or erected with a fixed location upon, under, or above the ground or attached to something having a fixed location on the ground.

Tavern means a place of business, which includes the sale of beer and wine beverages, but does not provide mixed drink liquor sales.

Telecommunications means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the content of the information as sent and received.

Top Cap is a horizontal element of a wood fence covering the top end of pickets and posts. A privacy fence with a top cap is commonly referred to as a cap and trim fence.

Tower or tower structure means a fixed, freestanding or guyed, uninhabitable structure, not designed as a shelter or to be occupied for any use. This definition includes, but is not limited to, any such structure supporting antennae that transmits or receives any portion of the electromagnetic spectrum of radio waves. The following are by way of example but not limitation, towers or tower structures: guyed or freestanding monopole structures, lattice or open framed structures, antennae sports, water towers, and other similar self-supporting, trussed, or open framed structures.

Tree means any woody perineal plant with a single stem or trunk, typically supporting branches and leaves.

Tree Survey means an on-the-ground survey drawing containing the location of the trees, their circumference, type (species) and protected root zone limits.

Tree Preservation Plan means a plan that identifies trees being preserved on a site proposed for development and shows details of tree protection and preservation measures being taken during construction activity.

Zoning board of adjustment means a board appointed by the council that is responsible for certain zoning items, as provided in the zoning regulations and applicable state law.

Zoning official means the person appointed by council to administer and enforce the zoning regulations of the city.

Secs. 77-4—77-24. Reserved.”

Section 3. Chapter 77 of the Code of Ordinances of the City of Manvel, and same also being the Zoning Ordinance of the City, is hereby amended by amending Article II. “District Regulations,” Section 77-44. *Trees, landscaping, fencing, and screening* to read and provide as follows:

“Chapter 77 - ZONING

...

ARTICLE II. DISTRICT REGULATIONS

...

Sec. 77-44. – Tree[s] preservation, landscaping, fencing and screening.

(A) Intent and Purpose. Certain species of mature trees greatly contribute to the image, aesthetics, and identity of the City of Manvel. Development will invariably result in the removal of trees, however, uncontrolled and indiscriminate destruction of trees would detrimentally impact the aesthetic value and enjoyment of the natural environment. Protection and preservation of mature trees along with planting requirements for new development will benefit citizens by maintaining a positive image of the city as a place to live and locate a business. These standards and regulations are intended to:

1. Prohibit the indiscriminate clearing of property and promoting responsible design decisions that will preserve as many protected trees as possible;
2. Protect the natural ecological environmental and aesthetic qualities of the city;
3. Establish the permitting process and standards required to preserve protected trees during construction; and
4. Establish planting, screening, and buffering requirements for new development.

(B) Tree Preservation. Any tree that qualifies as a protected tree as identified by this ordinance shall be preserved unless the removal is unavoidable based on the Tree removal criteria in Section 77-44 (B) 6.

1. Applicability: Tree preservation requirements only apply to City of Manvel city limits.
2. Exemptions: The following are exempt from tree preservation requirements:
 - a. Individual lots and lots of record that are less than twenty (20) acres in lot size that are existing as single-family detached or attached dwellings;
 - b. Non-protected trees;
 - c. Any tree damaged by natural disasters or by disease/ rot and deemed to be a hazard by the Zoning Official;
 - d. Any tree that requires removal by Public works, Fire, Police, or other emergency services personnel actively engaged in fighting a fire or other emergency services response;
 - e. Any tree that requires removal or trimming by the Texas Department of Transportation or other state agency with authority, a railroad company, or any public or private utility company with a state or city franchise agreement, where the tree was trimmed or removed according to the entity's adopted tree trimming/removal policy or practices.
 - f. Any tree planted, grown and/or held for sale as part of a licensed nursery / greenhouse, retail or wholesale business;

- g. Properties for which construction plans or Final plats have been approved prior to the adoption of this ordinance;
- h. Properties identified on a Master Plan approved by City Council prior to the adoption of this ordinance.

3. Protected Trees:

- a. Any tree with a diameter at breast height (DBH – 4.5 feet) of 19 inches or a circumference of 60 inches, or more, identified in the list of protected tree species in Section 77-44 (B) 4.
- b. Any tree shown on an approved landscape plan that is necessary to meet the development standards of the zoning ordinance (Chapter 77 of the Manvel, Code of Ordinances) or to meet a condition of approval of the development to which the landscape plan applies.
- c. Any tree identified in the list of protected tree species located in the public right-of-way or a property owned by the city of Manvel.
- d. A tree of any size that serves as a screening between commercial and residential uses and zoning district.

4. List of Protected Tree Species:

- a. Oak (all variety)
- b. Pecan
- c. Magnolia
- d. Elm

5. Clear Cutting and Burning Prohibited: Clear cutting and burning of trees on undeveloped land is prohibited. Parcels proposed for development that include stands of trees shall not be removed in preparation for development. Development shall be designed to, completely, or partially preserve existing stands of trees unless:

- a. No reasonable alternative design at the same density and intensity could be approved.
- b. Relocation of the protected trees to another location on-site or within the City is not practical or economically feasible as certified by an arborist or a landscape professional.

6. Tree Removal Permit Required:

- a. No person shall cut down, burn, destroy, remove, move, or effectively destroy through damaging or encroach into the protected root zone of any protected tree on any public or private property unless a valid tree removal permit has been issued based on the tree removal criteria provided in Section 77-44 (B) 9.
- b. Before a permit can be issued, a tree survey shall be submitted as set out in Section 77-44 (B) 7.

- c. The Zoning Official or designee may require an applicant to provide aerial photograph interpretation of the site and/or additional data for preliminary analysis of large-scale development projects involving tree removal.
 - d. For applications that do not meet the Tree Removal Criteria (below), the applicant shall have the right to appeal to the Manvel City Council. An appeal to the Manvel City Council must be filed within sixty (60) days after receiving notice of permit denial. A final decision on the application shall be made by City Council upon receiving a recommendation from the City of Manvel Parks Board.
 - e. Where the dangerous condition of a protected tree requires its immediate removal to protect against a serious and immediate risk to health, safety or property, a property owner may remove a protected tree without first obtaining a permit. However, within fourteen (14) calendar days after removing the tree, the property owner must apply for a tree removal permit and file a written statement describing the protected tree by size, species, and location and explaining the emergency conditions that required its immediate removal.
 - f. A tree removal permit is not required for the removal of a non-protected tree.
7. Tree Survey and Preservation Plan Required:
- a. Generally, all applications for a tree removal permit must include information pertaining to specifications and location of all protected trees; identification of protected trees to be removed and preserved; reason for tree removal; details and specifications of proposed tree replacement; Tree Preservation Plan showing tree protection measures during construction activities, and any other relevant details.
 - b. For removal of one or more protected trees from a property proposed for construction, a property owner must submit a written application accompanied by a current tree survey and a Tree Preservation Plan prepared by an arborist or a landscape professional.
 - c. For removal of an individual protected tree from a property not proposed for construction, a property owner must file a written application that may accompany a survey, map, or plat of the property showing the location, species, and size of the protected tree that is to be removed and explaining the reason that removal is desired in lieu of a tree survey and preservation plan.
 - d. The City may accept a partial tree survey in lieu of a full tree survey if the Zoning Official finds that protected trees only exist on a portion of the site.
8. Tree Protection Requirement: All existing trees intended to be made part of a proposed development shall be protected during construction activities. The following minimum standards apply to tree protection during construction activities:
- a. Barricades made of wood or fencing material, not less than 3 feet in height with horizontal and vertical structural members shall be installed at the critical root zone.
 - b. In situations where a tree remains in the immediate area of intended development activity where tree protection fence is not feasible, the tree shall be

protected by enclosing the entire circumference of the tree's trunk with fence pickets, at least six feet high, banded by wire or other means that does not damage the tree.

- c. Barricades shall be removed only to prepare development site for final landscaping.
- d. Parking or storing vehicles, equipment or materials within critical root zone is prohibited.
- e. Parking or storing vehicles, equipment or materials within critical root zone is prohibited.
- f. Protected trees shall be pruned only for clearance, dead, or hazard branches. Corrective pruning should occur after construction is complete.

9. *Tree Removal Criteria:* No individual protected tree shall be removed unless it meets one or more of the following criteria based on which a tree removal permit is issued:

- a. The tree is infected with an epidemic insect or disease where a recommended control is not applicable, and removal is the recommended practice to prevent transmission.
- b. The tree poses an extreme public nuisance because of its species, size, location, or condition.
- c. The tree poses a severe safety hazard that cannot be corrected by pruning, transplanting, or other treatments.
- d. The tree severely interferes with the growth and development of a more protected desirable tree.
- e. The aesthetic value of the tree is so low or negative that the site is visually enhanced by the tree's removal.
- f. The tree is in, and within 10 feet of, an approved building footprint and results in a dangerous condition.
- g. The tree is located within six feet of a utility easement, and the tree would interfere with the use of the easement.
- h. On properties proposed for development, no reasonable alternative site design at the same density and intensity could be approved and relocation of the protected tree to another location on-site or within the City is not practical or feasible for the survival of the tree.
- i. The tree has a negative impact on the aesthetics and visibility of an existing or proposed development in a manner that the intended purpose of the development cannot be achieved.

10. *Tree Replacement Requirement and Standards:*

- a. If a protected tree is removed in violation of this ordinance, it shall be replaced in accordance with the requirements of this section.
- b. If a protected tree is removed with a valid tree removal permit, it shall be replaced in accordance with the requirements of this section. Tree replacement

requirement for removal of individual protected trees with a valid tree replacement permit may be modified or waived when a replacement tree can potentially result in hazardous and unsafe conditions due to existing development or insufficient area for healthy growth of existing or replacement trees, as determined by the City Council based on recommendation from the City of Manvel Parks Board.

- c. On properties proposed for development, replacement trees shall be counted towards the landscaping requirements of the zoning ordinance based on its location.
- d. Tree replacement shall be based on the following standards:
 - 0-10 inches DBH – One 3-inch or more
 - 10-15 inches DBH – One equivalent caliper or Two 3-inch caliper
 - 15–19 inches DBH - One equivalent caliper or Four 3-inch caliper
 - 19-inch DBH or more - One equivalent caliper or Six 3-inch caliper.
- e. On properties proposed for development, replacement trees shall be installed as part of site development.
- f. On properties not proposed for development, replacement trees shall be installed within 30 days of removal.

11. Tree Preservation Credits: On a site proposed for development, preservation of protected trees specified in Section 77-44 (B) 3 (a) may qualify for tree preservation credits towards development landscaping requirement if the site development plans indicate compliance with tree protection standards of Section 77-44 (B) 8. Tree preservation credit shall not be used to substitute for tree planting requirement of Section 77-44 (C) 6. The tree preservation credit shall be based on the following standards:

<u>Total Number of Trees Preserved</u>	<u>Tree Preservation Credit per tree</u>
<u>3 or less trees</u>	<u>Five (5) 2½ inch caliper per tree</u>
<u>4 or more trees</u>	<u>Eight (8) 2½ inch caliper</u>

(C) Development Landscaping. The following regulations shall apply to all new land development projects, except new single-family residential:

~~[(1) Trees.~~

~~a. Preservation required of existing street trees. Trees located in any public street right-of-way must be preserved and may not be removed without prior written approval of the zoning official.~~

~~b. Retention of existing trees. Where appropriate, new development should be located to take advantage of existing mature trees. The protection and retention of existing trees which~~

~~are at least 1½ inches in caliper shall be credited to the tree planting requirements except for street tree planting requirements.~~

~~c. Protection of existing trees. Trees that are to be protected and retained shall be protected during construction. The tree protection area shall not be used for the parking or storage of any soil, vehicles, equipment, or materials. No waste or surplus products of any nature shall be disposed of within or near the tree preservation area. Grade changes around existing trees are limited to three inches.~~

~~d. Planting of new street trees. Street trees shall be reasonably regularly spaced with at least one tree for each 30 feet of street frontage for each street on which the property fronts.~~

~~1. Street trees shall be planted within the right-of-way line with adjustments in spacing allowed for driveways, streetlights, visibility triangles, transit shelters, and utility or traffic control appurtenances. If sufficient street trees to meet the requirement already exist along the frontage of a site, no additional trees are required, provided they are protected and retained in accordance with these regulations.~~

~~2. The minimum planting size for street trees is 1½ inches in caliper measured at the base of the tree.]~~

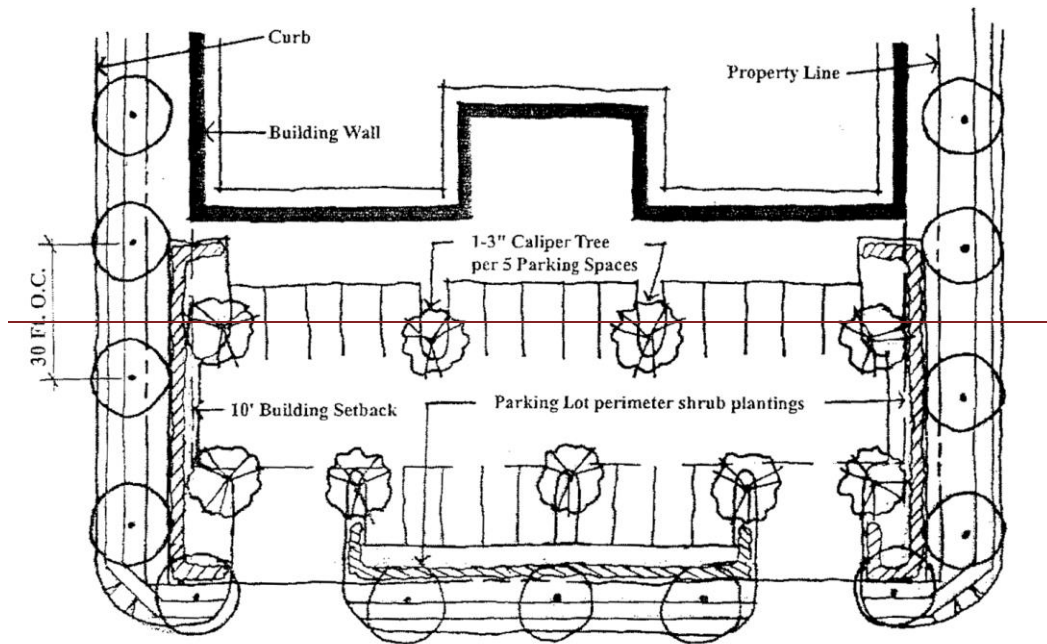
1. *Planting of new yard trees.*

- a. New trees shall be planted at the rate of one (1) tree for each thirty (30) feet of street frontage along front and street side yards.
- b. The minimum planting size for yard trees is 2½ inches in caliper measured at the base of the tree.
- c. No new trees shall be planted in public rights-of-way, utility easements, or existing access easements.
- d. For new development, if planting yard trees is not possible due to existing easements along the street frontage, additional parking lot trees at the rate of one (1) tree for each five (5) parking spaces shall be planted. Such trees shall be a minimum of 12½ inches in caliper measured at the base of the tree.

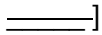
2. [e.] Planting of trees and shrubs for new parking lots. Trees for new parking lots shall total at least one tree for each [five] ten parking spaces and at the end of each parking row. Trees and landscaping must be located within the parking area in [areas] 9 feet x 18 feet planting islands protected by a curb or other vehicle obstruction. Such trees shall be a minimum of 1½ inches in caliper measured at the base of the tree. Shrub plantings shall be placed along the perimeter of a parking lot in an amount to provide a visible screen for the parking lot. The shrubs must be maintained at a [maximum] height of 30 to 36 inches for safety and visibility purposes.

[Example:

REQUIRED STREET AND PARKING LOT TREES AND SHRUBS



Scale: 1 inch = 30 feet



3. [(2)] Maintenance of landscaping. All landscaping must be perpetually maintained in good health by the property owner on which the landscaping lies or by the adjacent property owner. In the case of street trees planted within the right-of-way, the owner of the adjacent property shall have the responsibility for tree maintenance. Trees lost for any reason, with the exception of street or utility work, shall be replaced by the property owner within six months. Replacement trees must be a minimum of three-inch caliper. The responsibility for replacement of trees removed because of natural disaster, vehicular accident, or other similar circumstance, is that of the adjacent property owner regardless of whether that owner is reimbursed by the responsible party.

4. [(3)] Planting areas.

a. Site areas. All site areas not covered by buildings or paving shall be planted with trees, shrubs, grass, ground covers or other plant materials. Special ground covering materials are permissible in playgrounds or active sports areas or other areas as determined by the city zoning official.

b. Landscape plans. Landscape plans shall be submitted to the city zoning official at the time of submittal of all other construction plans for all new construction. In the open-planned unit development district landscape plans shall be submitted to the city zoning official prior to consideration of the plan by the planning commission.

c. Irrigation. All planting areas shall be irrigated. Irrigation plans must be submitted with the landscaping plans and all irrigation materials shall be installed prior to occupancy of the building.

5. [(4) Land uses requiring] Required landscape screening and/or fencing.

- a. Air conditioning and other mechanical equipment. Ground mounted mechanical equipment of all types must be fenced or screened with shrub planting from pedestrian view. This requirement does not apply to traffic control equipment boxes, telecommunication housings (smaller than three feet by six feet) or similar public facilities.
- b. Utility facilities. All utility facilities must be screened from pedestrian view subject to a screening and buffering plan approved by the zoning official.
- c. Parking lots. All parking lots for non-residential uses must be landscaped according to these regulations.
- d. Drive-through facilities. Where drive-through lanes or stacking bays and/or service windows are within 50 feet of a side or rear property line that adjoins an existing residential use, a six-foot-high wooden fence must be constructed and retained adjacent to the property line.

6. Transitional buffer yard between residential and non-residential uses.

- a. Non-residential development shall provide a ten (10) foot-wide landscape buffer yard when abutting an existing residential development or undeveloped residential zoning district. The buffer yard shall include one (1) tree per thirty (30) linear feet. A screening fence in accordance with Section 77-43 is required when a fence is not already present on the abutting residential development or undeveloped residentially zoned land.
- b. New master-planned residential development shall provide a ten (10) foot-wide landscape buffer yard when abutting undeveloped properties zoned for non-residential uses. The buffer yard shall be maintained by the Homeowner's Association and shall include one (1) tree per thirty (30) linear feet. A screening fence in accordance with Section 77-43 is required when a fence is not already present on the abutting property zoned for non-residential uses."

Section 3. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Manvel, save and except the change described above.

Section 4. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or

provision hereof other any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Manvel, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 5. Any person who shall intentionally, knowingly, recklessly, or with criminal negligence violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000.00. Each day of violation shall constitute a separate offense.

PASSED AND APPROVED on first reading this _____ day of _____, 2025.

PASSED, APPROVED, AND ADOPTED on second and final reading this _____ day of _____, 2025.

Dan Davis, Mayor

Attest:

Tammy Bell, City Secretary

APPROVED AS TO FORM:

Robert Gervais, City Attorney



MANVEL CITY COUNCIL DATA SHEET

MEETING DATE: May 5, 2025

TOPIC: Text amendment to the *Manvel Code of Ordinances*, Chapter 77, *Zoning* (The Zoning Ordinance) to amend conditions of SUP approval for medical and other personal care service uses. First of two readings of Ordinance No. 2025-O-15

BACKGROUND: Staff is presenting amendments to the zoning ordinance to amend and include several requirements and provisions pertaining to landscaping and tree preservation; conditions of SUP approval for medical and other personal care service uses; North American Industry Classification system (NAICS) code version update. This agenda item is to consider the amendment pertaining conditions of SUP approval for medical and other personal care service uses.

Currently, the conditions of SUP approval for medical uses and other personal care uses include limited hours of operation from 8 am to 10 pm, unless approved by an SUP. During consideration of an SUP application for a freestanding Emergency Room (ER), staff was made aware that State legislature requires Emergency Room (ER) to have 24-hour operation. City Attorney has recommended that the ordinance be amended to include provision for 24-hour operation based on State requirement. This recommendation is to allow conformance with Texas Occupations Code which requires that a political subdivision may not adopt certain regulations for massage establishments that are more restrictive than for other health care professionals.

The public hearing notice requirement for this proposed zoning amendment was met through the provisions of Section 211.007(d) of the Texas Local Government Code, which allowed a joint public hearing by Planning, Development, and Zoning Commission (PDZ) and the City Council in lieu of sending notices to each property owner within 200 feet, as mandated by the City of Austin V Acuna case.

STAFF RECOMMENDATION: Staff is recommending approval of the proposed text amendment to the *Manvel Code of Ordinances*, Chapter 77, *Zoning* (The Zoning Ordinance) to amend conditions of SUP approval for medical and other personal care service uses.

PD&Z RECOMMENDATION: PD&Z is forwarding a final report recommending approval of the proposed text amendment to the *Manvel Code of Ordinances*, Chapter 77, *Zoning* (The Zoning Ordinance) to amend conditions of SUP approval for medical and other personal care service uses.

ATTACHMENTS: Redline version of the proposed amendment, Ordinance No. 2025-O-15,
and Staff Report

FUNDING ISSUES

- ☒ Not applicable
☐ Not budgeted
☐ Full amount already budgeted
☐ Funds to be transferred from Acct.#

SUBMITTING STAFF MEMBER
Jose Abraham
Director of Development Services

FINANCE DIRECTOR APPROVAL _____

CITY MANAGER APPROVAL _____





FINAL REPORT TO CITY COUNCIL

Zoning Text Amendment

Agenda of:	May 5, 2025	Initiated By:	Jose Abraham Director, Development Services
Subject:	Zoning Text Amendment [Sec. 77-50.- Uses requiring specific use permit (SUP)]	Presented By:	Jose Abraham Director, Development Services
Agenda Action:	Consideration and possible action to forward a Final Report recommending approval to City Council for this proposed Zoning Text Amendment. (<u>First of two readings of Ordinance No. 2025-O-15</u>).		

SUMMARY

Currently, the conditions of SUP approval for medical uses and other personal care uses (as per NAICS) include limited hours of operation from 8 am to 10 pm, unless approved by an SUP. During consideration of an SUP application for a freestanding Emergency Room (ER), staff was made aware that State legislature requires Emergency Room (ER) to have 24-hour operation. City Attorney has recommended that the ordinance be amended to include provision for 24-hour operation based on State requirement. This recommendation is to allow conformance with Texas Occupations Code which requires that a political subdivision may not adopt certain regulations for massage establishments that are more restrictive than for other health care professionals.

Staff Recommendation: APPROVAL

PD&Z Recommendation: APPROVAL

EXHIBITS/ ATTACHMENTS

Sec. 77-50.- Uses requiring specific use permit (SUP), Ordinance No. 2025-O-15, and public hearing Notice.

PROPOSED AMENDMENT

Currently, the predetermined condition to SUP approval for medical uses and other personal care uses (based on NAICS) include limited hours of operation from 8 am to 10 pm, unless approved by an SUP. Following is the current text pertaining to Hours of operation related condition for Ambulatory health care services, Hospitals, Nursing and residential care facilities, and Other personal care services:

The facility is only permitted to operate during the hours of 8:00 a.m. to 10:00 p.m. each day., unless authorized by an approved SUP;

To avoid potential violation of State Legislature requirements, staff is recommending the following amended language. Additionally, based on input from previous SUP applications, opening at 7:00 a.m. is very common for medical uses.

Unless otherwise required by state law or regulation, the facility is only permitted to operate during the hours of 7:00 a.m. to 10:00 p.m. each day.,



STAFF RECOMMENDATION

Staff is recommending approval of the proposed amendment to Sec. 77-50.- *Uses requiring specific use permit (SUP)* by adopting Ordinance No. 2025-0-15.

PD&Z DISCUSSION AND RECOMMENDATION

PD&Z Commission discussed this proposed text amendment at the April 28, 2025, meeting. PD&Z Commission is forwarding this final report recommending approval of the proposed amendment to Sec. 77-50.- *Uses requiring specific use permit (SUP)* by adopting Ordinance No. 2025-0-15.

PUBLIC HEARING

The Notice of Public Hearing was published in the newspaper of general circulation. The public hearing notice requirement for this proposed zoning amendment was met through the provisions of Section 211.007(d) of the Texas Local Government Code, which allowed a joint public hearing by Planning, Development, and Zoning Commission (PDZ) and the City Council in lieu of sending notices to each property owner within 200 feet, as mandated by the City of Austin V Acuna case.

A PUBLIC HEARING WILL BE HELD JOINTLY BY MANVEL CITY COUNCIL AND THE MANVEL PLANNING, DEVELOPMENT & ZONING COMMISSION AT MANVEL CITY HALL, 20031 HIGHWAY 6, MANVEL, TEXAS, 77578 AT 6:00 P.M. ON MONDAY, APRIL 28, 2025, TO HEAR INPUT FROM THE PUBLIC REGARDING AN ORDINANCE OF THE CITY OF MANVEL, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF MANVEL, TEXAS, BY AMENDING CHAPTER 77 “ZONING”, TO AMEND AND INCLUDE SEVERAL REQUIREMENTS AND PROVISIONS PERTAINING TO LANDSCAPING AND TREE PRESERVATION; CONDITIONS OF APPROVAL OF SUP FOR MEDICAL AND OTHER PERSONAL CARE SERVICES RELATED USES; POSSIBLE ADOPTION OF REVISED NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) CODE; THE PROCESS FOR REZONING; AND POSSIBLE RECTIFICATION OF EXISTING TYPOGRAPHIC ERRORS. /S/ TAMMY BELL, CITY SECRETARY.

Sec. 77-50. Uses requiring specific use permit (SUP).

- (a) Certain uses of land, buildings or structures may not be appropriate under all circumstances in any given zoning district, but may be appropriate where adequate precautions can be taken to assure compatibility with surrounding uses, public need, and the orderly development of the city as a whole. This section provides council and planning commission the opportunity to deny or to conditionally approve those uses for which specific use permits are required. These uses generally have unusual characteristics or are of a public or semipublic character often essential or desirable for the general convenience and welfare of the community. Because, however, of the nature of use, the importance of the use's relationship to the comprehensive plan, or possible adverse impact on neighboring properties of the use, review, evaluation, and exercise of planning commission judgment relative to the location and site plan of the proposed use are required.
- (b) The council, after receiving the recommendation of the planning commission, may by ordinance, grant a specific use permit for the permitted uses, as herein qualified by the permitted use table, in locations and zoning districts to permit a use where they are not otherwise permitted by this article, and may impose any appropriate conditions and safeguards to protect property and property values, and in the interest of health, safety or welfare.
- (c) Where provided for in section 77-26(f), permitted use table, a specific use permit shall be required before that specific use can be permitted within the district specified. A building permit or certificate of occupancy shall not be issued for any use to be located in a zoning district which permits that use, unless a specific use permit has been issued in accordance with the provisions of this section.
- (d) Application procedure. An application for a specific use permit shall be filed with the city. The application shall be accompanied by a conceptual site plan that, complete application, and fees that will become a part of the specific use permit, if approved. Verification of all information contained in the conceptual site plan shall be required to be certified by an engineer and/or surveyor, as applicable, as a condition for the granting of any specific use permit. The accompanying conceptual site plan shall provide the following information:
 - (1) Data describing all processes and activities involved with the proposed use.
 - (2) Boundaries of the area covered by the site plan.
 - (3) The location of existing and proposed building and structure in the area covered by the site plan and the number of stories, height, roofline, gross floor area and the location of building entrances and exits.
 - (4) The location of existing drainage ways, and significant natural features.
 - (5) Proposed landscaping and screening buffers.
 - (6) The location of all curb cuts, public and private streets, parking and loading areas, pedestrian walks, lighting facilities, and outside trash storage facilities.
 - (7) The location and type of each wall, fence, and other types of screening.
 - (8) The location, height and size of all proposed signs.
 - (9) Show all existing or proposed water, sewer and electrical.
 - (10) Show all dedicated easements.
- (e) Criteria for approval. In considering any application for a specific use permit, the planning commission and the council shall hold public hearings as with any amendment request and consider the following criteria:
 - (1) Conformance of the proposed use with the city's comprehensive plan and land use policies;

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- (2) The character of the neighborhood, the zoning and use of nearby properties, and the extent to which the proposed use would be compatible;
 - (3) The suitability of the property for the uses permitted by right;
 - (4) The extent to which the proposed use would detrimentally affect nearby property, including, but not limited to, sound, light, traffic, aesthetics, odor, dust, vibration, and dangerous or hazardous activity;
 - (5) The extent to which the proposed use would affect the capacity or safety of that portion of the street network, other public facilities or utilities, or present parking problems in the vicinity of the property;
 - (6) The extent to which approval of the use would harm the value of nearby properties;
 - (7) Whether the establishment of the specific use will not impede the normal and orderly development and improvement of surrounding vacant property;
 - (8) The extent that adequate utilities, access roads, drainage and other necessary supporting facilities have been or will be provided;
 - (9) Whether the design, location and arrangement of all driveways and parking spaces provides for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent developments;
 - (10) The extent that directional lighting will be provided so as not to disturb or adversely affecting the general public or adjacent developments;
 - (11) Whether there is sufficient landscaping and screening to insure harmony and compatibility with adjacent property; and
 - (12) Any other any appropriate conditions and safeguards to protect property and property values, and in the interest of health, safety or welfare.
- (f) Use of property permitted by a specific use permit must commence within one year from the date of approval, unless extended by action of the council.
- (g) In addition to other conditions the council may impose, the following conditions shall apply to the land uses specified below:
- (1) *Accommodations.* The conditions for hotel (except casino hotels) and motels and all other traveler accommodation shall include:
 - a. Hotels (except casino hotels) and motels as defined by NAICS No. 721110 in section 77- 26, permitted uses, shall include the following conditions:
 1. All guest rooms are accessed via interior hallway;
 2. All interior hallways accessed from a central lobby;
 3. A minimum 1,000 square feet dedicated to meeting and event space;
 4. The use of a kitchenette is not permitted;
 5. Maintain a copy of guest registration information for a minimum 30 days which includes guest photographic identification, guest vehicle license plate number, guest permanent address, guest bill including method of payment, guest check-in and check-out dates and times, and number of persons staying in the room(s);
 6. Install and maintain security cameras in each interior hallway, lobby, parking lots, and exterior door;
 7. Require all guests to enter through a central lobby after 11:00 p.m.; and

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8. A hotel owner, operator, or manager must be present and accessible in person on a 24-hour basis.
 - b. All other traveler accommodation as defined by NAICS No. 721199 in section 77-26, permitted uses, shall include the following conditions:
 1. Maintain a copy of guest registration information for a minimum 30 days which includes guest photographic identification, guest vehicle license plate number, guest permanent address, guest bill including method of payment, guest check-in and check-out dates and times, and number of persons staying in the room(s);
 2. Install and maintain security cameras in the central lobby, parking lots, and exterior doors;
 3. A facility operator, owner, or manager must be present and accessible in person on a 24-hour basis; and
 4. Require all guests to enter through a central area after 11:00 p.m.
 - (2) *Adult entertainment business.* The conditions for an adult entertainment business shall include:
 - a. A business license; and
 - b. A minimum of 500 feet from any school, day care, place of worship, or residential neighborhood or other district.
 - (3) *All other general merchandise stores.* All other general merchandise store as defined by NAICS No. 452990, Permitted Uses, shall include the following conditions:
 - a. There shall be a minimum separation distance between "dollar/general store" uses of two miles. The distance shall be measured from the nearest dollar/general store property line to the nearest dollar/general store property line; and
 - b. A minimum 10 percent gross floor area shall be dedicated to fresh produce, meat, and dairy products.
 - (4) *Ambulatory health care services.* Ambulatory health care services as defined by NAICS No. 621, Permitted Uses, shall include the following conditions:
 - a. Unless otherwise required by state law or regulation, The the facility is only permitted to operate during the hours of 7:00 a.m. 8:00 a.m. to 10:00 p.m. each day, ~~unless authorized by an approved SUP;~~
 - b. All waiting and/or lobby areas shall maintain an unobstructed view from the outside; and
 - c. All doors shall remained unlocked and accessible during normal business hours.
 - (5) *Convenience stores.* Convenience stores as defined by NAICS No. 445120, Permitted Uses, shall include the following condition:
 - a. A convenience store shall not be located within two miles of an existing convenience store and gasoline station. The distance shall be measured from property line to property line.
 - (6) *Game room.* The conditions for a game room shall include:
 - a. A business license;
 - b. A minimum of 300 feet from any place of worship, daycare, school, or hospital; and
 - c. All doors shall remain unlocked and accessible during normal business hours.
 - (7) *Gasoline stations.* Gasoline stations as defined by NAICS No. 447, Permitted Uses, shall include the following condition:

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- a. A gasoline station shall not be located within two miles of an existing gasoline station and convenience store. The distance shall be measured from property line to property line.
- (8) *Hospitals.* Hospitals as defined by NAICS No. 622 in section 77-26, permitted uses, shall include the following conditions:
- a. Unless otherwise required by state law or regulation, The the facility is only permitted to operate during the hours of 7:00 a.m. 8:00 a.m. to 10:00 p.m. each day, ~~unless authorized by an approved SUP;~~
- b. All waiting and/or lobby areas shall maintain an unobstructed view from the outside;
- c. All doors shall remained unlocked and accessible during normal business hours.
- (9) *Nursing and residential care facilities.* Nursing and residential care facilities as defined by NAICS No. 623 in section 77-26, permitted uses, shall include the following conditions:
- a. Unless otherwise required by state law or regulation, The the facility is only permitted to operate during the hours of 7:00 a.m. 8:00 a.m. to 10:00 p.m. each day, ~~unless authorized by an approved SUP;~~
- b. All waiting and/or lobby areas shall maintain an unobstructed view from the outside;
- c. All doors shall remained unlocked and accessible during normal business hours.
- (10) *Other personal care services.* Other personal care services as defined by NACIS No. 81219 in section 77-26, permitted uses, shall include the following conditions:
- a. Unless otherwise required by state law or regulation, The the facility is only permitted to operate during the hours of 7:00 a.m. 8:00 a.m. to 10:00 p.m. each day, ~~unless authorized by an approved SUP;~~
- b. All waiting and/or lobby areas shall maintain an unobstructed view from the outside; and
- c. All doors shall remained unlocked and accessible during normal business hours.
- (11) *Place of worship, private school, or governmental agency with an oversized sign.* The conditions include:
- a. A minimum of 2,000 feet when the main structure is located 200-feet from the State Highway 288 right-of-way;
- b. An approved site plan; and
- c. Approved sign permit application.
- (h) *Time limit.* A specific use permit issued under this section shall expire one year after its date of issuance if construction or use authorized there under is not substantially under way prior to the expiration of said one-year period. If prior to the expiration of such one-year period, the owner of property to which a specific use permit applies in writing, for an extension. The council after recommendation from the planning commission may grant such extension for one additional year.
- (i) *Revocation.* A specific use permit may be revoked or modified, after notice and hearing, for either of the following reasons:
- (1) The specific use permit was obtained or extended by misrepresentation, fraud or deception; or
- (2) That one of more of the conditions imposed by the permit has not been met or has been violated.
- (j) *Amendments.* The procedure for amendment of a specific use permit shall be the same as for a new application provided however, that the city manager may approve minor variations from the original permit

which do not increase density, change in traffic patterns, or result in any increase in external impact on adjacent properties or neighborhoods.

- (k) *Application fee.* An application fee is required for the processing of each specific use permit request.
- (l) *Religious institutions, private school, or governmental agency signs.* Consistent with section 53- 17, where the main structure of a property of a religious institution, private school or governmental agency lies within 2,000 feet of the S.H. 288 right-of-way, a sign that exceeds the height and/or area requirements of the sign ordinance may be permitted by the council by approval of a specific use permit incorporating an approved site plan and sign drawings. The procedure and criteria for approval of this section shall apply to an application for this type of specific use permit.

(Ord. No. 2020-O-15, § 3, 10-19-2020; Ord. No. 2023-O-40, § 3, 12-4-2023)

ORDINANCE NO. 2025-O-15

AN ORDINANCE AMENDING CHAPTER 77 “ZONING” OF THE CODE OF ORDINANCES OF THE CITY OF MANVEL, TEXAS, SAME BEING THE ZONING ORDINANCE OF THE CITY, BY AMENDING ARTICLE II. “DISTRICT REGULATIONS,” SECTION 77-50 “*USES REQUIRING SPECIFIC USE PERMIT (SUP)*” TO AMEND CERTAIN CONDITIONS REQUIRED FOR HOSPITALS AND OTHER HEALTH CARE USES TO BE CONSISTENT WITH STATE LAW; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000.00 PER DAY FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; AND PROVIDING FOR SEVERABILITY.

WHEREAS, Texas Health and Safety Code, Chapter 254, Subchapter B requires any freestanding emergency medical care facility to be open 24 hours a day, 7 days a week; and

WHEREAS, the City Council of the City of Manvel, Texas, determines it in the best interest of the health, safety, and welfare of the citizens of the City of Manvel to amend the Section 77-50 of the Zoning Ordinance to reflect this state law, and for other changes; and

WHEREAS, the amendment(s) generally revise the Specific Use Permit (SUP) provisions requiring certain hours of operation as a condition for hospitals and other certain health care uses; and

WHEREAS, the Planning Commission (PD&Z) has issued its report regarding the proposed amendment(s) to the Zoning Ordinance herein; and

WHEREAS, the Planning Commission (PD&Z) and City Council have conducted, in the time and manner required by law and the Zoning Ordinance of the City, a public hearing on such amendment to the zoning ordinance and both entities find that the adoption of this ordinance is in the best interest of the citizens of Manvel; now, therefore,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANVEL,
TEXAS:**

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. Chapter 77 of the Code of Ordinances of the City of Manvel, and same also being the Zoning Ordinance of the City, is hereby amended by amending Article II, Section 77-50 to read and provide as follows:

“Chapter 77 - ZONING

...

ARTICLE II. DISTRICT REGULATIONS

...

Sec. 77-50. - Uses requiring specific use permit (SUP).

...

(g) In addition to other conditions the council may impose, the following conditions shall apply to the land uses specified below:

...

(4) Ambulatory health care services. Ambulatory health care services as defined by NAICS No. 621, Permitted Uses, shall include the following conditions:

a. Unless otherwise required by state law or regulation, the [The] facility is only permitted to operate during the hours of 7:00 a.m. [~~8:00 a.m.~~] to 10:00 p.m. each day [~~unless authorized by an approved SUP~~];

b. All waiting and/or lobby areas shall maintain an unobstructed view from the outside; and

c. All doors shall remained unlocked and accessible during normal business hours.

...

(8) Hospitals. Hospitals as defined by NAICS No. 622 in section 77-26, permitted uses, shall include the following conditions:

a. Unless otherwise required by state law or regulation, the [The] facility is only permitted to operate during the hours of 7:00 a.m. [8:00 a.m.] to 10:00 p.m. each day [,unless authorized by an approved SUP];

b. All waiting and/or lobby areas shall maintain an unobstructed view from the outside;

c. All doors shall remained unlocked and accessible during normal business hours.

(9) Nursing and residential care facilities. Nursing and residential care facilities as defined by NAICS No. 623 in [section 77-26](#), permitted uses, shall include the following conditions:

a. Unless otherwise required by state law or regulation, the [The] facility is only permitted to operate during the hours of 7:00 a.m. [8:00 a.m.] to 10:00 p.m. each day [,unless authorized by an approved SUP];

b. All waiting and/or lobby areas shall maintain an unobstructed view from the outside;

c. All doors shall remained unlocked and accessible during normal business hours.

(10) Other personal care services. Other personal care services as defined by NACIS No. 81219 in [section 77-26](#), permitted uses, shall include the following conditions:

a. Unless otherwise required by state law or regulation, the [The] facility is only permitted to operate during the hours of 7:00 a.m. [8:00 a.m.] to 10:00 p.m. each day [,unless authorized by an approved SUP].

b. All waiting and/or lobby areas shall maintain an unobstructed view from the outside; and

c. All doors shall remained unlocked and accessible during normal business hours.

...”

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Manvel, save and except the change described above.

Section 5. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Manvel, Texas, declares that it would have

passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 6. Any person who shall intentionally, knowingly, recklessly, or with criminal negligence violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000.00. Each day of violation shall constitute a separate offense.

PASSED AND APPROVED on first reading this _____ day of _____, 2025.

PASSED, APPROVED, AND ADOPTED on second and final reading this _____ day of _____, 2025.

Dan Davis, Mayor

Attest:

Tammy Bell, City Secretary

APPROVED AS TO FORM:

Robert Gervais, City Attorney



MANVEL CITY COUNCIL DATA SHEET

MEETING DATE: May 5, 2025

TOPIC: Text amendment to the *Manvel Code of Ordinances*, Chapter 77, *Zoning* (The Zoning Ordinance) to adopt 2022 North American Industry Classification system (NAICS) code version for determining landuse allowance. First of two readings of Ordinance No. 2025-O-16

BACKGROUND: Staff is presenting amendments to the zoning ordinance to amend and include several requirements and provisions pertaining to landscaping and tree preservation; conditions of SUP approval for medical and other personal care service uses; North American Industry Classification system (NAICS) code version update. This agenda item is to consider the amendment adopting 2022 North American Industry Classification system (NAICS) code version to determine landuse allowance.

Currently, the land use allowances of the zoning ordinance is based on 2007 version of the NAICS code. Staff has reviewed changes made on the most recent version of the code (2022 version), so that the most recent version can be adopted and associated amendments to the land use table can be made. The 2022 version of the code is not significantly different but includes few changes to the specific code numbers to certain uses. Additionally, certain landuse codes have been combined and some have been separated. The attached redline version identifies these changes.

The public hearing notice requirement for this proposed zoning amendment was met through the provisions of Section 211.007(d) of the Texas Local Government Code, which allowed a joint public hearing by Planning, Development, and Zoning Commission (PDZ) and the City Council in lieu of sending notices to each property owner within 200 feet, as mandated by the City of Austin V Acuna case.

STAFF RECOMMENDATION: Staff is recommending approval of the proposed text amendment to the *Manvel Code of Ordinances*, Chapter 77, *Zoning* (The Zoning Ordinance) to adopt 2022 North American Industry Classification system (NAICS) code version to determine land use allowance.

PD&Z RECOMMENDATION: PD&Z is forwarding a final report recommending approval of the proposed text amendment to the *Manvel Code of Ordinances*, Chapter 77, *Zoning* (The Zoning Ordinance) to adopt 2022 North American Industry Classification system (NAICS) code version to determine land use allowance.

ATTACHMENTS: Redline version of the proposed amendment, Ordinance No. 2025-O-16, and Final Report from PD&Z Commission.

FUNDING ISSUES

- ☒ Not applicable
☐ Not budgeted
☐ Full amount already budgeted
☐ Funds to be transferred from Acct.#

SUBMITTING STAFF MEMBER
Jose Abraham
Director of Development Services

FINANCE DIRECTOR APPROVAL _____
CITY MANAGER APPROVAL _____





FINAL REPORT TO CITY COUNCIL

Zoning Text Amendment

Agenda of:	May 5, 2025	Initiated By:	Jose Abraham Director, Development Services
Subject:	Zoning Text Amendment (Sec. 77-26.- <i>Permitted Uses</i>)	Presented By:	Jose Abraham Director, Development Services
Agenda Action:	Consideration and possible action to approve this proposed Zoning Text Amendment. (<u>First of Two Readings of Ordinance No. 2025-O-16</u>)		

SUMMARY

Currently, the land use allowances of the zoning ordinance is based on 2007 version of the NAICS code. Staff has reviewed changes made on the most recent version of the code (2022 version), so that the most recent version can be adopted and associated amendments to the land use table can be made. The 2022 version of the code is not significantly different but includes few changes to the specific code numbers and descriptions of certain uses. Additionally, certain landuse codes have been combined and some have been separated. The attached redline version identifies these changes.

Staff Recommendation: APPROVAL

PD&Z Recommendation: APPROVAL

EXHIBITS/ ATTACHMENTS

Sec. 77-26.- *Permitted Uses* redline version, Ordinance No. 2025-O-16, and Public Hearing Notice.

PROPOSED AMENDMENT

The following table provides a comparison of changes between 2007 and 2022 versions of the NAICS code:

2007 NAICS	2022 NAICS	NOTES
333 Industrial machinery	333 Machinery manufacturing	<i>Name change</i>
442 Furniture and home furnishing stores	4491 Furniture and home furnishing retailers	<i>Name and Code change</i>
443 Electronics and appliance stores	4492 Electronics and appliance retailers	<i>Name and Code change</i>
445 Food and beverage stores	445 Food and beverage retailers	<i>Name change</i>
445120 Convenience stores	445131 Convenience retailers	<i>Name and Code change</i>
NA	445132 Vending Machine Operators	<i>New code (previously part of 454 Non-store retailers)</i>
447 Gasoline stations	457 Gasoline stations and fuel dealers	<i>Name and Code change</i>
448 Clothing and clothing accessories stores	458 Clothing, clothing accessories, shoe, and jewelry retailers	<i>Name and Code change</i>
451 Sporting Goods hobby, book and music stores	459 Sporting Goods, Hobby, Musical Instrument, Book, and Miscellaneous Retailers	<i>Name and Code change</i>
452 General merchandise stores	455 General merchandise retailers	<i>Name and Code change</i>



2007 NAICS	2022 NAICS	NOTES
452990 All other general merchandise stores	455219 All other general merchandise retailers	<i>Name and Code change</i>
453 Misc. store	-	<i>Covered under 459 Sporting Goods, Hobby, Musical Instrument, Book, and Miscellaneous Retailers</i>
45393 Manufactured (mobile) home dealers	459930 Manufactured (mobile) home dealers	<i>Code change</i>
453991 Tobacco stores	459991 Tobacco, Electronic Cigarette, and Other Smoking Supplies Retailers	<i>Name and Code change</i>
454 Non store retailers	-	<i>Covered under other codes</i>
48 Transportation and warehousing	48 – 49 Transportation and warehousing	<i>Typo</i>
522298 All other nondepository credit intermediation	522299 International, Secondary Market, and All Other Nondepository Credit Intermediation	<i>Name and Code change (includes additional specific uses)</i>
5321 Automotive equipment rental	5321 Automotive equipment rental and leasing	<i>Name and Code change</i>
532292 Recreational Goods Rental	532284 Recreational Goods Rental	<i>Code change</i>
5324 Commercial and industrial machinery and equipment rental	5324 Commercial and industrial machinery and equipment rental and Leasing	<i>Name change</i>
5412 Accounting, tax preparation, bookkeeping and payroll	5412 Accounting, tax preparation, bookkeeping and payroll services	<i>Name change</i>
8113 Commercial and industrial machinery and equipment (except automotive and electronic repair)	8113 Commercial and industrial machinery and equipment (except automotive and electronic repair) repair and maintenance	<i>Name change</i>

STAFF RECOMMENDATION

Staff is recommending approval of the proposed amendment to Sec. 77-26.- *Permitted Uses* by adopting Ordinance No. 2025-0-16.

PD&Z DISCUSSION AND RECOMMENDATION

PD&Z Commission discussed this proposed text amendment at the April 28, 2025, meeting. PD&Z Commission is forwarding this final report recommending approval of the proposed amendment to Sec. 77-26.- *Permitted Uses* by adopting Ordinance No. 2025-0-16.



PUBLIC HEARING

The Notice of Public Hearing was published in the newspaper of general circulation. The public hearing notice requirement for this proposed zoning amendment was met through the provisions of Section 211.007(d) of the Texas Local Government Code, which allowed a joint public hearing by Planning, Development, and Zoning Commission (PDZ) and the City Council in lieu of sending notices to each property owner within 200 feet, as mandated by the City of Austin V Acuna case.

A PUBLIC HEARING WILL BE HELD JOINTLY BY MANVEL CITY COUNCIL AND THE MANVEL PLANNING, DEVELOPMENT & ZONING COMMISSION AT MANVEL CITY HALL, 20031 HIGHWAY 6, MANVEL, TEXAS, 77578 AT 6:00 P.M. ON MONDAY, APRIL 28, 2025, TO HEAR INPUT FROM THE PUBLIC REGARDING AN ORDINANCE OF THE CITY OF MANVEL, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF MANVEL, TEXAS, BY AMENDING CHAPTER 77 "ZONING", TO AMEND AND INCLUDE SEVERAL REQUIREMENTS AND PROVISIONS PERTAINING TO LANDSCAPING AND TREE PRESERVATION; CONDITIONS OF APPROVAL OF SUP FOR MEDICAL AND OTHER PERSONAL CARE SERVICES RELATED USES; POSSIBLE ADOPTION OF REVISED NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) CODE; THE PROCESS FOR REZONING; AND POSSIBLE RECTIFICATION OF EXISTING TYPOGRAPHIC ERRORS. /S/ TAMMY BELL, CITY SECRETARY.

Sec. 77-26. Permitted uses.

- (a) *Use of land and building.* Buildings, structures, land, or premises shall be used only in accordance with the uses specifically permitted in the zoning district classification for the site subject to compliance with parking regulations, height, and area requirements, special conditions and other requirements of the zoning ordinance.
- (b) *Permitted use table.* The permitted uses in each specific zoning district are shown by means of symbols in the permitted use tables as follows.

The letter "P" in the zoning district column opposite the listed permitted use means the use is permitted as a use of right in that district. The letter "S" in the zoning district column opposite the listed use means the use is permitted in that zoning district only by obtaining a specific use permit as set forth in section 77-50. No primary use shall be permitted in any district unless the letter "P" or the letter "S" appears opposite the listed permitted use. The letter "O" in the zoning district column means that the permitted use is for office functions only.

Parking requirements are in section 77-45.

- (c) *Uses not listed.* Primary uses not listed in the permitted use table may be permitted by the zoning official in any district where similar uses are permitted. The function and location requirements of the unlisted use must be consistent with the purpose and description of the zoning district, compatible with the permitted uses in the district, and similar in traffic-generating capacity, noise, vibration, dust, odor, glare and heat producing circumstance.
- (d) *Accessory use.* A use which is customarily incidental to that of the primary existing use, which is located on the same lot or premises as the primary existing use and which has the same zoning district classification shall be permitted as an accessory use without being separately listed as a permitted use.
- (e) *North American Industry Classification System (NAICS) Codes.* The activity descriptions in the ~~(2007-2022)~~ NAICS Codes prepared by United States Executive Office of the president, office of management and budget, (~~www.census.gov/eos/www/naics/index.html~~ <https://www.census.gov/naics/>) shall be used to determine the primary establishment uses when reference is made to the tables to a designated standard industrial classification. Annually, staff shall determine if the manual has been revised. If the manual has been revised, such revisions and changes will be summarized in a written report and presented to the planning commission. The commission will make recommendations to the council regarding adoption of the revised changes to the zoning ordinance permitted uses.
- (f) *Permitted Use Table.*

Legend:

OSFR	Open-Single-Family Residential
SFR	Single-Family Residential
MF	Multi-family
LC	Light Commercial
HC	Heavy Commercial
HCMH	HUD-Code Manufactured Homes
HMU	Highway Mixed Use
P	Permitted use
S	Specific use permit required
O	Office function only

USE	OSFR	SFR	LC	HC	MF	HCMH	HMU
Adult entertainment business ¹				S			
Game room ¹				S			
111 Crop production	P						P
112 Animal production	P						P
115 Support activities for agriculture and forestry			O	P	O		O
21 Mining, quarrying and oil and gas extraction	S	S	S	S	S	S	S
22 Utilities			O	S	O		O
236 Construction of buildings			O	P	O		O
237 Heavy and civil engineering construction			O	P	O		S
237130 Power and communication line and related structures construction	S	S	S	S	S	S	S
238 Specialty trade contractors			O	P	S		O
311 Food manufacturing			O	P	O		O
311811 Retail bakeries			P	P	P		P
3121 Beverage manufacturing			S	P	S		S
313 Textile mills			O	P	O		O
314 Textile product mills			O	P	O		O
315 Apparel manufacturing			S	P	S		S

316 Leather and allied product manufacturing			S	P	S		S
321 Wood products manufacturing			O	P	O		O
321999 All other misc. wood			S	P	S		S
322 Paper manufacturing			O	P	O		O
323 Printing and related support activities			P	P	P		P
324 Petroleum and coal products manufacturing			O	S	O		O
325 Chemical manufacturing			O	S	O		O
326 Plastics and rubber products manufacturing			O	S	O		O
327 Nonmetallic mineral products manufacturing			O	S	O		O
331 Primary metal manufacturing			O	S	O		O
332 Fabricated metal product manufacturing			O	S	O		O
333 Industrial machinery <u>Machinery</u> manufacturing			O	S	O		O
334 Computer and electronic product manufacturing			O	P	O		O
335 Electrical equipment, appliance and component manufacturing			O	P	O		O

336 Transportation equipment manufacturing			O	S	O		O
337 Furniture and related product manufacturing			O	P	O		O
339 Miscellaneous manufacturing			O	P	O		O
42 Wholesale			O	P	O		O
441 Motor vehicle and parts			S	S	S		S
442-4491 Furniture and home furnishing stores <u>retailers</u>			P	P	P		P
443-4492 Electronics and appliance stores <u>retailers</u>			P	P	P		P
444 Building material, garden equipment and supplies dealers			P	P	P		P
445 Food and beverage stores <u>retailers</u>			P	P	P		P
445120-445131 Convenience stores <u>retailers</u> ¹			S	S	S		S
445132 Vending Machine Operators			<u>S</u>	<u>P</u>	<u>S</u>		<u>S</u>
446 Health and personal care stores			P	P	P		P
455219 All other <u>general merchandise</u> <u>retailers</u> ¹			<u>S</u>	<u>S</u>	<u>S</u>		<u>S</u>
455 General <u>merchandise</u> <u>retailers</u>			<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>

<u>456 Health and personal care retailers</u>			<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>
<u>447-457 Gasoline stations and fuel dealers</u> ¹			S	S	S		S
<u>448-458 Clothing and clothing accessories, shoe, and jewelry retailers stores</u>			P	P	P		P
<u>451-459 Sporting Goods, Hobby, Musical Instrument, Book, and Miscellaneous Retailers Sporting goods, hobby, book and music stores</u>			P	P	P		P
<u>452 General merchandise stores</u>			<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>
<u>452990 All other general merchandise stores</u> ¹			<u>S</u>	<u>S</u>	<u>S</u>		<u>S</u>
<u>453 Misc. store retailers</u>			<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>
<u>45393-459930 Manufactured (mobile) home dealers</u>			S	S	S		S
<u>453991-459991 Tobacco, Electronic Cigarette, and Other Smoking Supplies Retailers Tobacco stores</u>			S	S	S		S
<u>454 Non-store retailers</u>			<u>S</u>	<u>P</u>	<u>S</u>		<u>S</u>

48-48 – 49 Transportation and warehousing			O	P	O		O
491 Postal Service			P	P	P		P
492 Couriers and messengers			S	P	S		S
493 Warehouse and Storage			S	P	S		S
51 Information			S	P	S		S
52 Finance and insurance			P	P	P		P
522291 Consumer lending				P			
522298-522299 <u>International, Secondary Market, and All Other Nondepository Credit Intermediation</u> All other nondepository credit intermediation				S			
531 Real estate			P	P	P		P
53112 Lessors of nonresidential buildings (except mini warehouses)			P	P	P		P
53113 Lessors of mini warehouses and self-storage units			S	P	S		S
5321 Automotive and equipment rental <u>and leasing</u>			S	P	S		S
5322 Consumer good rental			P	P	P		P
532292-532284 Recreational Goods Rental			S	P	S		S

5323 General rental centers			S	P	S		S
5324 Commercial and industrial machinery and equipment rental and Leasing			O	P	O		O
54 Professional, scientific, and technical services			P	P	P		P
5412 Accounting, tax preparation, bookkeeping and payroll services			P	P	P		P
54194 Veterinary services			P	P	P		P
55 Management of companies and enterprises			P	P	P		P
561 Administrative and support services			P	P	P		P
562 Waste management and remediation services			O	P	O		O
6111 Elementary and secondary schools	S	S	S	S	S	S	S
6112 Junior colleges	S	S	S	S	S	S	S
6113 Colleges, universities, and professional schools	S	S	S	S	S	S	S
6114 Business schools and computer and management training			S	S			S
6115 Technical and trade schools			S	S			S

6116 Other schools and instruction			S	S	S		S
6117 Educational support services			P	P	P		P
621 Ambulatory health care services ¹			S	S	S		S
622 Hospitals ¹			S	S	S		S
623 Nursing and residential care facilities ¹			S	S	S		S
623990 Other residential care facilities	S	S	S	S	S	S	S
624 Social assistance			P	P	P		S
6244 Child day care services			P	P	S		S
71 Arts, entertainment, and recreation			P	S	P		P
713 Amusement, gambling, recreation industries			S	S	S		S
713940 Fitness and Sports Centers			P	P	P		P
713990 All other amusement and recreational industries	S	S	S	S	S	S	S
721 Accommodations			S	S	S		S
7212 RV parks and recreational camps			S	S	S		S
721191 bed and breakfast	S	S	S	S	S	S	S
722 Food services and drinking places			P	P	P		P
72233 Mobile food services			S	S	S		S

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(Supp. No. 34)

7224 Drinking places (alcoholic beverages)			S	P	S		S
8111 Automotive repairs and maintenance			S	P	S		S
811122 Automotive glass replacement shop			P	P	P		P
8112 Electronic and precision equipment repair and maintenance			P	P	P		P
8113 Commercial and industrial machinery and equipment (except automotive and electronic repair) <u>repair and maintenance</u>				P			
8114 Personal and household goods repair and maintenance			S	P	S		S
812 Personal and laundry services			P	P	P		P
812113 Nail salons			S	S	S		S
81219 Other personal care services			S	S	S		S
812210 Funeral homes and funeral services			S	P	S		S
812220 Cemeteries and crematories	S	S	S	S	S		S
813110 Religious organizations	S	S	S	S	S	S	S
813410 Civil and social organizations	S	S	S	P	S		S

814 Private households	P	P			P* See § 77- 30	P* See § 77- 34	P
92 Public administration	P	P	P	P	P	P	P
¹ See Section 77-50. - Uses Requiring Specific Use Permit (SUP).							

For business descriptions visit the NAICS website.

<http://www.census.gov/eos/www/naics/>

~~2007 NAICS~~ <https://www.census.gov/naics/?58967?yearbck=2022>

(Ord. No. 2020-O-15, § 3, 10-19-2020; Ord. No. 2023-O-40, § 3, 12-4-2023)

ORDINANCE NO. 2025-O-16

AN ORDINANCE AMENDING CHAPTER 77 “ZONING” OF THE CODE OF ORDINANCES OF THE CITY OF MANVEL, TEXAS, SAME BEING THE ZONING ORDINANCE OF THE CITY, BY AMENDING ARTICLE II. “DISTRICT REGULATIONS,” SECTION 77-26 *PERMITTED USES*, BY ADOPTING THE 2022 VERSION OF THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) CODES THAT DETERMINE PERMITTED USES; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000.00 PER DAY FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; AND PROVIDING FOR SEVERABILITY.

WHEREAS, the current zoning ordinance uses the activity descriptions in the 2007 *North American Industry Classification System (NAICS) Codes* prepared by United States Executive Office of the president, office of management and budget, (www.census.gov/eos/www/naics/index.html <https://www.census.gov/naics/>) to determine the primary establishment uses when reference is made to the tables to a designated standard industrial classification; and

WHEREAS, the City Council of the City of Manvel, Texas, determines it in the best interest of the health, safety, and welfare of the citizens of the City to amend the Zoning Ordinance to update to the 2022 *North American Industry Classification System (NAICS) Codes* that determine permitted uses; and

WHEREAS, the Planning, Development, and Zoning Commission has issued its report and approved the amendments to the Zoning Ordinance herein; and

WHEREAS, the Planning, Development, and Zoning Commission and City Council have conducted, in the time and manner required by law and the Zoning Ordinance of the City, a public hearing on such amendment to the zoning ordinance and both entities find that the adoption of this ordinance is in the best interest of the citizens of Manvel; now, therefore,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANVEL,
TEXAS:**

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. Chapter 77 of the Code of Ordinances of the City of Manvel, and same also being the Zoning Ordinance of the City, is hereby amended by amending Article II. "District Regulations," Section 77-26 *Permitted uses* to read and provide as follows:

"Chapter 77 - ZONING

...

ARTICLE II. DISTRICT REGULATIONS

...

Sec. 77-26. Permitted uses.

(a) *Use of land and building.* Buildings, structures, land, or premises shall be used only in accordance with the uses specifically permitted in the zoning district classification for the site subject to compliance with parking regulations, height, and area requirements, special conditions and other requirements of the zoning ordinance.

(b) *Permitted use table.* The permitted uses in each specific zoning district are shown by means of symbols in the permitted use tables as follows.

The letter "P" in the zoning district column opposite the listed permitted use means the use is permitted as a use of right in that district. The letter "S" in the zoning district column opposite the listed use means the use is permitted in that zoning district only by obtaining a specific use permit as set forth in section 77-50. No primary use shall be permitted in any district unless the letter "P" or the letter "S" appears opposite the listed permitted use. The letter "O" in the zoning district column means that the permitted use is for office functions only.

Parking requirements are in section 77-45.

(c) *Uses not listed.* Primary uses not listed in the permitted use table may be permitted by the zoning official in any district where similar uses are permitted. The function and location requirements of the unlisted use must be consistent with the purpose and description of the zoning district, compatible with the permitted uses in

the district, and similar in traffic-generating capacity, noise, vibration, dust, odor, glare and heat producing circumstance.

(d) *Accessory use.* A use which is customarily incidental to that of the primary existing use, which is located on the same lot or premises as the primary existing use and which has the same zoning district classification shall be permitted as an accessory use without being separately listed as a permitted use.

(e) *North American Industry Classification System (NAICS) Codes.* The activity descriptions in the ([2007] 2022) NAICS Codes prepared by United States Executive Office of the President, Office of Management and Budget, (www.census.gov/eos/www/naics/index.html] <https://www.census.gov/naics/>) shall be used to determine the primary establishment uses when reference is made to the tables to a designated standard industrial classification. Annually, staff shall determine if the manual has been revised. If the manual has been revised, such revisions and changes will be summarized in a written report and presented to the planning commission. The commission will make recommendations to the council regarding adoption of the revised changes to the zoning ordinance permitted uses.

(f) *Permitted Use Table.*

Legend:

OSFR	Open-Single-Family Residential
SFR	Single-Family Residential
MF	Multi-family
LC	Light Commercial
HC	Heavy Commercial
HCMH	HUD-Code Manufactured Homes
HMU	Highway Mixed Use
P	Permitted use
S	Specific use permit required
O	Office function only

USE	OSFR	SFR	LC	HC	MF	HCMH	HMU
Adult entertainment business ¹				S			
Game room ¹				S			
111 Crop production	P						P
112 Animal production	P						P
115 Support activities for agriculture and forestry			O	P	O		O
21 Mining, quarrying and oil and gas extraction	S	S	S	S	S	S	S
22 Utilities			O	S	O		O
236 Construction of buildings			O	P	O		O
237 Heavy and civil engineering construction			O	P	O		S
237130 Power and communication line and related structures construction	S	S	S	S	S	S	S
238 Specialty trade contractors			O	P	S		O
311 Food manufacturing			O	P	O		O
311811 Retail bakeries			P	P	P		P
3121 Beverage manufacturing			S	P	S		S
313 Textile mills			O	P	O		O

USE	OSFR	SFR	LC	HC	MF	HCMH	HMU
314 Textile product mills			O	P	O		O
315 Apparel manufacturing			S	P	S		S
316 Leather and allied product manufacturing			S	P	S		S
321 Wood products manufacturing			O	P	O		O
321999 All other misc. wood			S	P	S		S
322 Paper manufacturing			O	P	O		O
323 Printing and related support activities			P	P	P		P
324 Petroleum and coal products manufacturing			O	S	O		O
325 Chemical manufacturing			O	S	O		O
326 Plastics and rubber products manufacturing			O	S	O		O
327 Nonmetallic mineral products manufacturing			O	S	O		O
331 Primary metal manufacturing			O	S	O		O
332 Fabricated metal product manufacturing			O	S	O		O

USE	OSFR	SFR	LC	HC	MF	HCMH	HMU
333 [Industrial machinery] <u>Machinery manufacturing</u>			O	S	O		O
334 Computer and electronic product manufacturing			O	P	O		O
335 Electrical equipment, appliance and component manufacturing			O	P	O		O
336 Transportation equipment manufacturing			O	S	O		O
337 Furniture and related product manufacturing			O	P	O		O
339 Miscellaneous manufacturing			O	P	O		O
42 Wholesale			O	P	O		O
441 Motor vehicle and parts			S	S	S		S
[442] <u>4491 Furniture and home furnishing [stores] retailers</u>			P	P	P		P
4492 Electronics and appliance retailers			P	P	P		P
444 Building material, garden equipment and supplies dealers			P	P	P		P

USE	OSFR	SFR	LC	HC	MF	HCMH	HMU
445 Food and beverage [stores] <u>retailers</u>			P	P	P		P
[445120] <u>445131</u> Convenience [stores] <u>retailers¹</u>			S	S	S		S
<u>445132 Vending Machine</u> <u>Operators</u>			<u>S</u>	<u>P</u>	<u>S</u>		<u>S</u>
[446 Health and person care stores			P	P	P		P]
<u>455219 All other general</u> <u>merchandise retailers¹</u>			<u>S</u>	<u>S</u>	<u>S</u>		<u>S</u>
<u>455 General</u> <u>merchandise retailers</u>			<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>
<u>456 Health and personal</u> <u>care retailers</u>			<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>
[447] <u>457 Gasoline</u> <u>stations and fuel dealers¹</u>			S	S	S		S
[448] <u>458 Clothing [and],</u> <u>clothing accessories,</u> <u>shoe, and jewelry</u> <u>retailers [stores]</u>			P	P	P		P
[451] <u>459 Sporting</u> <u>Goods, Hobby, Musical</u> <u>Instrument, Book, and</u> <u>Miscellaneous Retailers</u> [Sporting goods, hobby, book and music stores]			P	P	P		P

USE	OSFR	SFR	LC	HC	MF	HCMH	HMU
[452 General merchandise stores]			P	P	P		P
[452990 All other general merchandise stores]			S	S	S		S]
[453 Misc. store retailers]			P	P	P		P]
[45393] <u>459930</u> Manufactured (mobile) home dealers			S	S	S		S
[453991] <u>459991</u> <u>Tobacco, Electronic Cigarette, and Other Smoking Supplies Retailers</u> [Tobacco stores]			S	S	S		S
[454 Non-store retailers]			S	P	S		S]
[48] <u>48 – 49</u> Transportation and warehousing			O	P	O		O
491 Postal Service			P	P	P		P
492 Couriers and messengers			S	P	S		S
493 Warehouse and Storage			S	P	S		S
51 Information			S	P	S		S
52 Finance and insurance			P	P	P		P
522291 Consumer lending				P			

USE	OSFR	SFR	LC	HC	MF	HCMH	HMU
[522298] <u>522299</u> <u>International, Secondary</u> <u>Market, and All Other</u> <u>Nondepository Credit</u> <u>Intermediation</u> [All other nondepository credit intermediation]				S			
531 Real estate			P	P	P		P
53112 Lessors of nonresidential buildings (except mini warehouses)			P	P	P		P
53113 Lessors of mini warehouses and self- storage units			S	P	S		S
5321 Automotive [and] equipment rental <u>and</u> <u>leasing</u>			S	P	S		S
5322 Consumer good rental			P	P	P		P
[532292] <u>532284</u> Recreational Goods Rental			S	P	S		S
5323 General rental centers			S	P	S		S
5324 Commercial and industrial machinery and equipment rental <u>and</u> <u>leasing</u>			O	P	O		O

USE	OSFR	SFR	LC	HC	MF	HCMH	HMU
54 Professional, scientific, and technical services			P	P	P		P
5412 Accounting, tax preparation, bookkeeping and payroll <u>services</u>			P	P	P		P
54194 Veterinary services			P	P	P		P
55 Management of companies and enterprises			P	P	P		P
561 Administrative and support services			P	P	P		P
562 Waste management and remediation services			O	P	O		O
6111 Elementary and secondary schools	S	S	S	S	S	S	S
6112 Junior colleges	S	S	S	S	S	S	S
6113 Colleges, universities, and professional schools	S	S	S	S	S	S	S
6114 Business schools and computer and management training			S	S			S
6115 Technical and trade schools			S	S			S

USE	OSFR	SFR	LC	HC	MF	HCMH	HMU
6116 Other schools and instruction			S	S	S		S
6117 Educational support services			P	P	P		P
621 Ambulatory health care services ¹			S	S	S		S
622 Hospitals ¹			S	S	S		S
623 Nursing and residential care facilities ¹			S	S	S		S
623990 Other residential care facilities	S	S	S	S	S	S	S
624 Social assistance			P	P	P		S
6244 Child day care services			P	P	S		S
71 Arts, entertainment, and recreation			P	S	P		P
713 Amusement, gambling, recreation industries			S	S	S		S
713940 Fitness and Sports Centers			P	P	P		P
713990 All other amusement and recreational industries	S	S	S	S	S	S	S
721 Accommodations			S	S	S		S

USE	OSFR	SFR	LC	HC	MF	HCMH	HMU
7212 RV parks and recreational camps			S	S	S		S
721191 bed and breakfast	S	S	S	S	S	S	S
722 Food services and drinking places			P	P	P		P
72233 Mobile food services			S	S	S		S
7224 Drinking places (alcoholic beverages)			S	P	S		S
8111 Automotive repairs and maintenance			S	P	S		S
811122 Automotive glass replacement shop			P	P	P		P
8112 Electronic and precision equipment repair and maintenance			P	P	P		P
8113 Commercial and industrial machinery and equipment (except automotive and electronic repair) <u>repair and maintenance</u>				P			
8114 Personal and household goods repair and maintenance			S	P	S		S
812 Personal and laundry services			P	P	P		P

USE	OSFR	SFR	LC	HC	MF	HCMH	HMU
812113 Nail salons			S	S	S		S
81219 Other personal care services			S	S	S		S
812210 Funeral homes and funeral services			S	P	S		S
812220 Cemeteries and crematories	S	S	S	S	S		S
813110 Religious organizations	S	S	S	S	S	S	S
813410 Civil and social organizations	S	S	S	P	S		S
814 Private households	P	P			P* See § 77- 30	P* See § 77- 34	P
92 Public administration	P	P	P	P	P	P	P
¹ See Section 77-50. - Uses Requiring Specific Use Permit (SUP).							

For business descriptions visit the NAICS website.

[<http://www.census.gov/eos/www/naics/>

2007 NAICS]

<https://www.census.gov/naics/?58967?yearbck=2022>

...”

Section 3. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Manvel, save and except the change described above.

Section 4. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance

shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Manvel, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 5. Any person who shall intentionally, knowingly, recklessly, or with criminal negligence violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000.00. Each day of violation shall constitute a separate offense.

PASSED AND APPROVED on first reading this _____ day of _____, 2025.

PASSED, APPROVED, AND ADOPTED on second and final reading this _____ day of _____, 2025.

Dan Davis, Mayor

Attest:

Tammy Bell, City Secretary

APPROVED AS TO FORM:

Robert Gervais, City Attorney

STATE OF TEXAS §

§

BRAZORIA COUNTY §

LICENSE AGREEMENT

FOR INGRESS AND EGRESS

THIS LICENSE AGREEMENT (“**Agreement**”) is made effective as of the date of the latter signature hereof (the “**Execution Date**”) and is by and between the City of Manvel (“CITY”) and Noah D. Martini (“LICENSEE”).

R E C I T A L S

WHEREAS, CITY has certain right-of-way known as Bissell Road, running approximately 2,500 feet from Iowa Lane east to Kirchner Road, said right-of-way more particularly described on Exhibit A (the “**Property**”); and

WHEREAS, in Ordinance No. 2025-O-11 the City Council determined that it is in the best interest of the City of Manvel to close this portion of Bissell Road to public travel; and

WHEREAS, the City Council wishes to close said right-of-way but to provide that the property owners who need to access their property over said closed right-of-way may be granted a license for such access, where accompanied by the execution of a license agreement; and

WHEREAS, City desires to grant to LICENSEE the right, privilege and license to use the Property for ingress and egress to access LICENSEE’s residence, located at 6202 BISSELL RD MANVEL, TX 77578; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt, adequacy and sufficiency of all of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. License.

1.01 LICENSEE is hereby granted the non-exclusive right, privilege and LICENSE to use the Property for ingress and egress to access LICENSEE’s residence, located at 6202 BISSELL RD MANVEL, TX 77578.

1.02 Licensee. This license shall be granted to:

Noah D. Martini and his family, guests, and invitees.

1.03 Commencement Date: The Execution Date of this agreement.

1.04 License Fee: \$1.00 and the obligations as contained in the conditions in section 3.

1.05 Term. The license shall begin on date of full execution of this agreement by both parties and shall continue until the earlier of the following occurs:

- a. Opening of the right-of-way by the City to full public use
- b. Licensee obtains access to Licensee's residence from another city right-of-way;
- c. Termination by City for Cause, as stated herein.
- d. Termination by either party for convenience by giving the other party six months prior written notice.

2. Use.

2.01 The License shall be used for ingress and egress to access LICENSEE's residence, located at 6202 BISSELL RD MANVEL, TX 77578.

2.02 Gate. LICENSEE may construct a gate across the Property to prevent unauthorized ingress and egress.

2.03 Non-exclusive. The license shall be non-exclusive and the CITY may grant other similarly situated property owners a similar license to ingress and egress.

2.04 Governmental access. LICENSEE also acknowledges that others with right of access, such as employees of the CITY and other governmental entities, as well as franchise holders (e.g Centerpoint, AT&T, waste haulers), and other adjacent property owners (railroad representatives, GCWA personnel, etc), shall still be permitted access over said Property.

3. Conditions

3.01 The CITY and LICENSEE agree that the License is granted subject to the following conditions, terms and reservations:

- a) The LICENSEE must keep the roadway maintained in the same or better condition that exists on the effective date of this Agreement.
- b) The LICENSEE must upkeep and maintain the gate.
- c) The LICENSEE must provide a Knoxbox and install the Click2Enter electronic access system (Required by the Design Criteria Manual) for access by authorized government personnel.
- d) LICENSEE shall provide a visible phone number for other users with a right of ingress and egress to call and obtain access.
- e) The LICENSEE must not create or allow any nuisances on the Property.
- f) At such time as this License is expired, terminated or canceled, for any reason whatsoever, LICENSEE shall promptly remove the gate and any and all encroachments

and nuisances on the Property, if any, and LICENSEE shall restore the premises, in accordance with the requirements of the city manager.

- g) If LICENSEE fails to remove all encroachments and nuisances then the CITY shall have the right to do all work necessary or cause such encroachments and nuisances to be removed and assess the costs against LICENSEE, and the CITY shall in no case be liable to LICENSEE.

4. Indemnity

4.01 **Insurance.** LICENSEE shall obtain and keep in place a general liability insurance policy of not less than \$500,000 in coverage, **and shall name the City of Manvel as an additional insured.** LICENSEE shall provide, or cause to be provided, in advance, notice to the CITY of ANY termination or change in coverage.

4.02 **Indemnity.** To the fullest extent permitted by law, the LICENSEE, and each person, firm, corporation, association, or entity of any kind (hereinafter "person") using said Property at the request of or with the permission of LICENSEE, shall indemnify, defend, and hold the CITY harmless from any claim or liability associated with the activity permitted by this License.

4.03 The LICENSEE shall promptly defend, indemnify, and hold CITY harmless from and against all damages, costs, losses, or expenses:

(1) For the repair, replacement, or restoration of CITY's property, equipment, materials, structures, and facilities which are damaged or destroyed as a result of the user's acts or omissions; and

(2) From and against any and all claims, demands, suits, causes of action, and judgments for:

a. Damage to or loss of the property of any person (including, but not limited to, the user, its agents, officers, employees, and subcontractors, and the CITY, its agents, officers, and employees, and third parties); and/or

b. Death, bodily injury, illness, disease, loss of services, or loss of income or wages to any person (including, but not limited to, the officers, agents, and employees of the user, the user's contractors, and the CITY's officers, agents, and employees, and third parties), arising out of, incident to, concerning, or resulting from, the negligent or willful acts or omissions of the user, its officers, agents, employees, and/or subcontractors, in the performance of activities pursuant to the LICENSEE use of CITY's property, or by persons with LICENSEE's permission. This indemnity provision is intended to include liability arising from CITY's alleged negligence, but only to the extent such liability arises out of a claim or claims that the CITY was negligent in authorizing the LICENSEE to use or occupy the public property or in failing to prevent the LICENSEE from acting in a negligent or wrongful manner.

c. For purposes of this indemnification provision, acts or omissions of the officer, agents, employees and contractors of the LICENSEE shall be considered the acts

and omissions of the LICENSEE. The indemnity provision set forth above is solely for the benefit of CITY and is not intended to create or grant any rights, contractual or otherwise, to any other person.

4.02 LICENSEE shall never make any claim of any kind or character against the CITY for damages that it may suffer by reason of the installation, construction, reconstruction, operation, and/or maintenance of any public improvement or utility, whether presently in place or which may in the future be constructed or installed, including but not limited to, any water or sanitary sewer mains, or storm sewer facilities, and whether such damage is due to flooding, infiltration, natural causes or from any other cause of whatsoever kind or nature.

4.04 It is LICENSEE's intention, and a condition of this license, that this provision shall constitute a full and total indemnity against any kind or character or claim whatsoever that may be asserted against the CITY by reason of, or a consequence of having granted permission to LICENSEE to use and maintain the property. LICENSEE agrees to defend any and all suits, claims, or cause of action brought against the CITY on account of same, and discharge any judgment or judgments that may be rendered against the CITY in connection herewith. Such indemnity shall apply on a proportional basis, where the claims, losses, damages, causes of action, suits or liability arise in part from the negligence of the CITY and in part from the act or omission of any representative, or employee of LICENSEE.

4.05 The CITY acknowledges that all actions taken by LICENSEE pursuant to this License Agreement are done so with the mutual agreement that the LICENSEE requested the road closed and in return of doing that, the CITY requests certain functions to be performed, and that the LICENSEE enjoys state-action immunity to third parties for all actions taken in performance of this License Agreement. Nothing about this provision creates an obligation by the CITY to LICENSEE.

5. General Provisions

5.01 This Agreement constitutes the entire agreement between the CITY and LICENSEE. No agreements, modifications, implied or otherwise, shall be binding on any of the parties unless set forth in writing and signed by both parties.

5.02 The phrases, clauses, sentences, paragraphs or sections of this license to use agreement are severable and, if any phrase, clause, sentence paragraph, or section of this license to use agreement should be declared invalid by the final decree or judgment of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Agreement.

5.03 Any notice required to be given pursuant to the terms and provisions of this Agreement shall be in writing and shall be mailed by certified or registered mail, addressed as set forth below, or at such other address as may be specified by written notice:

CITY OF MANVEL:

20031 Highway 6
Manvel, TX 77578
(832) 336-4064

LICENSEE:

Noah Martini
6202 BISSELL RD
MANVEL, TX 77578

5.04 The CITY and LICENSEE agree that this Agreement shall be construed in accordance with the laws of the State of Texas. Venue for any dispute arising out of this License Agreement shall lie in a court of competent jurisdiction in Brazoria County, Texas.

5.05 Termination for cause. This Agreement may be terminated , without any penalty or further liability upon written notice as follows:

(a) By either party upon a default of any covenant or term hereof by the other party which default is not cured within 60 days of receipt of written notice of default (without, however, limiting any other rights available to the parties in law or equity); provided, that if the defaulting party commences efforts to cure the default within such period and diligently pursues such cure, the non-defaulting party shall no longer be entitled to declare a default;

(b) Upon 30 days' written notice from CITY to LICENSEE if the Site is or becomes necessary, in CITY's sole, but reasonable judgment, for use for governmental purposes by CITY. Termination for said reason shall not be cause for any condemnation or inverse condemnation damages or claims.

5.06 Hazardous Substances. LICENSEE agrees that it will not use, generate, store or dispose of any Hazardous Material on, under, about, or within the Property in violation of any law or regulation.

6. Assignment.

6.01 The License granted by this Agreement may be assigned by LICENSEE to a purchaser of successor in interest of the LICENSEE's residence.

6.02 Assignment shall be first approved by the city manager, which approval shall not be unreasonably withheld provided any ASSIGNEE agrees in writing to all terms and conditions of this Agreement, including all obligations of LICENSEE.

6.03 CITY may require the Property to be brought up to proper condition as a condition of approval of assignment.

7. Miscellaneous.

(a) The substantially prevailing party in any litigation arising hereunder is entitled to its reasonable attorney's fees and court costs, including appeals, if any.

(b) If any term of the Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of the Agreement, which shall continue in full force and effect.

(c) Either LICENSOR or LICENSEE may file this LICENSEE or a Memorandum of License in the property records of Brazoria County. If the information included in the Memorandum of License should change or if it becomes clear that such information is incorrect or incomplete or if the License is amended, CITY agrees to execute and return to LICENSEE a recordable Amended Memorandum of License in form supplied by LICENSEE, which corrects or completes such Memorandum.

(d) This Agreement may be executed in two or more counterparts, all of which are considered one and the same agreement and become effective when one or more counterparts have been signed by each of the parties, it being understood that all parties need not sign the same counterpart.

(e) Failure or delay on the part of either party to exercise any right, power or privilege hereunder shall not operate as a waiver thereof and waiver of breach of any provision hereof under any circumstances shall not constitute a waiver of any subsequent breach. The Agreement shall not be construed against the party drafting same.

(f) The parties agree that irreparable damage would occur if any of the provisions of this Agreement were not performed in accordance with their specified terms or were otherwise breached. Therefore, the parties agree the parties shall be entitled to seek injunctive relief to prevent breaches of the provisions of this Agreement and to enforce specifically the terms and provisions of the Agreement, this being in addition to any other remedy to which the parties are entitled at law or in equity.

(g) Each party executing this Agreement acknowledges that it has full power and authority to do so and that the person executing on its behalf has the authority to bind the party.

(h) This Agreement is valid and binding only upon CITY and LICENSEE's execution by their duly authorized representatives.

(i) The parties agree that a scanned or electronically reproduced copy or image of this Agreement shall be deemed an original and may be introduced or submitted in any action or proceeding as competent evidence of the execution, terms and existence hereof notwithstanding the failure or inability to produce or tender an original, executed counterpart of this Agreement and without the requirement that the unavailability of such original, executed counterpart of this Agreement first be proven.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, CITY and LICENSEE have each executed this License as of the respective dates written below.

CITY:

CITY OF MANVEL, TEXAS,

By: _____
Dan Davis, Mayor

Date: _____

ATTEST:

Tammy Bell, City Secretary

STATE OF TEXAS

COUNTY OF BRAZORIA

Before me, _____ the undersigned, a Notary Public for the State, personally appeared Dan Davis, Mayor of the City of Manvel, Texas, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official stamp or seal, this _____ day of _____, 2025.

Notary Public

My commission expires: _____

LICENSEE:

NOAH MARTINI

By: _____
Noah Martini

Date: _____

STATE OF TEXAS

COUNTY OF BRAZORIA

Before me, _____ the undersigned, a Notary Public for the State, personally appeared Noah Martini, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official stamp or seal, this _____ day of _____, 2025.

Notary Public

My commission expires: _____

EXHIBIT A

DESCRIPTION OR DEPICTION OF PROPERTY