

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

LARRY AKERY, COUNCIL PLACE 1
LORRAINE HEHN, COUNCIL PLACE 2
NICCOLE TYSON, COUNCIL PLACE 3
DAN DAVIS, COUNCIL PLACE 4
JASON ALBERT, COUNCIL PLACE 5
JEROME HUDSON, COUNCIL PLACE 6



DEBRA DAVISON, MAYOR
KYLE JUNG, CITY MANAGER
TAMMY BELL, CITY SECRETARY

**NOTICE OF A CITY COUNCIL MEETING
OF THE CITY OF MANVEL
May 16, 2022**

**NOTICE IS HEREBY GIVEN
6:00 P.M. WORKSHOP
7:00 P.M. REGULAR SESSION**

Pursuant to Chapter 551, Title 5 of the Texas Government Code, the Texas Open Meetings Act, notice is hereby given that the City of Manvel will convene a regular 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.

Workshop Session

Discussion on any subject as listed on the Agenda dated 5/16/2022.

Regular Session

Call To Order

Inspirational Reading - Council Member Hehn

Pledge

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

Special Recognitions, Acknowledgements, and Proclamations

Proclamations:

Emergency Medical Services Week - May 15 -21, 2022

Flood Awareness Week - May 23 - 27, 2022

Public Hearing

CANCELLED TO HEAR INPUT FROM THE PUBLIC REGARDING AN ORDINANCE OF THE CITY OF MANVEL, TEXAS AMENDING THE ZONING CLASSIFICATION OF APPROXIMATELY 21,000 SQUARE FEET LOCATED AT 7507 MASTERS ROAD, MANVEL, TEXAS, FROM LIGHT COMMERCIAL DISTRICT/STATE HIGHWAY 6 OVERLAY DISTRICT WITH SPECIFIC USE PERMIT (LC/SH6-SUP) TO LIGHT COMMERCIAL DISTRICT/STATE HIGHWAY 6 OVERLAY DISTRICT WITH SPECIFIC USE PERMIT (LC/SH6-SUP); PROVIDING FOR THE GRANTING OF A SPECIFIC USE PERMIT WITH CONDITIONS TO AUTHORIZE THE USE OF PROPERTY FOR NAICS USE 624190 "OTHER INDIVIDUAL AND FAMILY SERVICES"; PROVIDING FOR THE AMENDMENT OF THE CITY'S OFFICIAL ZONING MAP; PROVIDING FOR SEVERABILITY; AND PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF.

THIS PUBLIC HEARING HAS BEEN CANCELLED

TO HEAR INPUT FROM THE PUBLIC REGARDING AN ORDINANCE OF THE CITY OF MANVEL, TEXAS AMENDING THE ZONING CLASSIFICATION OF 1.24 ACRES LOCATED AT 22303 HIGHWAY 6, MANVEL, TEXAS, FROM LIGHT COMMERCIAL DISTRICT/STATE HIGHWAY 6 OVERLAY DISTRICT (LC/SH6) TO LIGHT COMMERCIAL DISTRICT/STATE HIGHWAY 6 OVERLAY DISTRICT WITH SPECIFIC USE PERMIT (LC/SH6-SUP); PROVIDING FOR THE GRANTING OF A SPECIFIC USE PERMIT WITH CONDITIONS TO AUTHORIZE THE USE OF PROPERTY FOR NAICS USE 811111 "GENERAL AUTOMOTIVE REPAIR" AND NAICS USE 811121 "AUTOMOTIVE BODY, PAINT, AND INTERIOR REPAIR AND MAINTENANCE"; PROVIDING FOR THE AMENDMENT OF THE CITY'S OFFICIAL ZONING MAP; PROVIDING FOR SEVERABILITY; AND PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF.

Public Comments: "Comment Card" Required

****Members of the public who wish to submit written comments on a listed agenda item must submit their comments via the Public Comment Request Form found on the city website www.cityofmanvel.com or by emailing tbell@cityofmanvel.com or by calling 281-489-0630 x6 for staff assistance.*

City Manager Update

Update on current events and city issues.

Consent Agenda

All Consent Agenda items listed are considered to be routine by the City Council and will be approved by one motion. There will be no separate discussion of these items unless a City Council Member so requests, in which event the item will be removed from the Consent Agenda and considered in sequence on the Agenda.

1. Acceptance of the meeting minutes to date.

Regular Agenda

1. Consideration and possible action to approve Resolution 2022-R-05;
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 7, 2022, FOR THE PURPOSE OF ELECTING TWO COUNCILMEMBERS (PLACE NO. 4 AND PLACE NO. 6); CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE SPECIAL ELECTION HELD ON MAY 7, 2022, FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY A PROPOSITION RELATING TO THE HOME RULE CHARTER; CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.
2. Issue Certificate of Election, Statement of Elected Officer, and Oath of Office to the declared candidates elect; Council Member Place 4, Ed Perry, and Council Member Place 6, Jerome Hudson.
3. Recognition of Dan Davis - City Council Term 2019-2022
4. Consideration and possible action on the appointment of a Mayor Pro-Tem to serve for one year.
5. Consideration and possible action to approve Resolution 2022-R-06;
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANVEL, TEXAS, IMPLEMENTING THE CHANGE TO THE CITY CHARTER OF THE CITY OF MANVEL AS A RESULT OF THE SPECIAL ELECTION HELD ON MAY 7, 2022; CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.
6. Consideration and possible action to approve on first reading, Ordinance 2022-O-18;
AN ORDINANCE AMENDING ORDINANCE NO. 2021-O-29 AMENDING THE CITY FISCAL YEAR 2022 BUDGET ENDING SEPTEMBER 30, 2022, BY AMENDING THE GENERAL FUND TO ACCOUNT FOR COUNCIL PAY AND REALLOCATION OF EXPENSES IN THE FIRE MARSHAL/CODE ENFORCEMENT DEPARTMENT DIRECTING THE BUDGET OFFICER TO FILE OR CAUSE TO BE FILED A COPY OF THE AMENDED BUDGET WITH THE CITY SECRETARY AND WITH THE OFFICE OF THE BRAZORIA COUNTY CLERK AND PROVIDING THIS ORDINANCE SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.
7. Consideration and possible action to approve the first of two readings of Ordinance 2022-O-14;
AN ORDINANCE OF THE CITY OF MANVEL, TEXAS AMENDING THE ZONING ORDINANCE OF THE CITY, BY AMENDING THE ZONING CLASSIFICATION OF 1.24 ACRES LOCATED AT 22303 HIGHWAY 6, MANVEL, TEXAS, FROM LIGHT COMMERCIAL DISTRICT/STATE HIGHWAY 6 OVERLAY DISTRICT (LC/SH6) TO LIGHT COMMERCIAL DISTRICT/STATE HIGHWAY 6 OVERLAY DISTRICT WITH SPECIFIC USE PERMIT (LC/SH6- SUP); PROVIDING FOR THE GRANTING OF A SPECIFIC USE PERMIT WITH CONDITIONS TO AUTHORIZE THE USE OF PROPERTY FOR NAICS USE 811111 "GENERAL AUTOMOTIVE REPAIR" AND NAICS USE 811121 "AUTOMOTIVE BODY, PAINT, AND INTERIOR REPAIR AND MAINTENANCE"; PROVIDING FOR THE AMENDMENT OF THE CITY'S OFFICIAL ZONING MAP; PROVIDING FOR SEVERABILITY; AND PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF. (Forwarded with favorable recommendation by PD&Z with a 4-2 vote)

8. Consideration and possible action to approve the first of two readings of Ordinance 2022-O-16; AN ORDINANCE AMENDING CHAPTER 35 "LICENSES AND SPECIAL BUSINESS REGULATIONS" OF THE CODE OF ORDINANCES OF THE CITY OF MANVEL, TEXAS, BY REPEALING THE CURRENT ARTICLE X "MOBILE FOOD VENDORS" AND ADOPTING A NEW ARTICLE X "MOBILE FOOD VENDORS" TO REGULATE MOBILE AND TEMPORARY FOOD VENDORS; AMENDING CHAPTER 35, ARTICLE VII "PEDDLERS, CANVASSERS, AND SOLICITORS"; REPEALING PROVISIONS IN CONFLICT THEREWITH; 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.
9. Consideration and possible action to approve the first of two readings of Ordinance 2022-O-17; AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MANVEL BY REPEALING THE CURRENT CHAPTER 33 "FOOD AND FOOD HANDLERS" AND ADOPTING A NEW CHAPTER 33 "FOOD AND FOOD HANDLERS" TO REGULATE FOOD ESTABLISHMENTS; REPEALING PROVISIONS IN CONFLICT THEREWITH; 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.
10. Consideration and possible action to approve a Master Cooperative Purchasing Agreement between the City of Manvel and the Sheriffs' Association of Texas, Inc.
11. Consideration and possible action to direct staff on a request by Clinton Wong for an amendment to the Rodeo Palms PUD to allow for Billboards to remain until December 31, 2023.

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 salutary 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 salutary 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 City of Manvel 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 on May 13, 2022, 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



Proclamation

OFFICE OF THE MAYOR CITY OF MANVEL

*Emergency Medical Services Week
May 15 – 21, 2022*

Whereas, emergency medical services is a vital public service; and,

Whereas, the members of emergency medical services teams are ready to provide lifesaving care to those in need 24 hours a day, seven days a week; and,

Whereas, access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and,

Whereas, emergency medical services has grown to fill a gap by providing important, out of hospital care, including preventative medicine, follow-up care, and access to telemedicine; and,

Whereas, the emergency medical services system consists of first responders, emergency medical technicians, paramedics, emergency medical dispatchers, firefighters, police officers, educators, administrators, pre-hospital nurses, emergency nurses, emergency physicians, trained members of the public, and other out of hospital medical care providers; and

Whereas, the members of emergency medical services teams, whether career or volunteer, engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills; and

Whereas, it is appropriate to recognize the value and the accomplishments of emergency medical services providers by designating Emergency Medical Services Week;

Now, Therefore, I, Debra Davison, by virtue of the authority vested in me as Mayor of the City of Manvel, Texas, do hereby proclaim May 15 -21, 2022, to be:



“EMERGENCY MEDICAL SERVICES WEEK”

With the EMS Strong theme, EMS WEEK: Rising to the Challenge, I encourage the community to observe this week with appropriate programs, ceremonies, and activities.

**In witness thereof, I have hereunto set
my hand and caused the seal of the City of
Manvel to be affixed.**

*Debra Davison, Mayor
May 16, 2022*

Proclamation

OFFICE OF THE MAYOR CITY OF MANVEL

Whereas, Throughout our state's history, flooding has threatened Texans' safety, property, and economy at extraordinary levels. From the great Galveston storm of 1900, which took thousands of lives, to modern storms like Hurricane Rita in 2005, Hurricane Ike in 2008, and 2017's Hurricane Harvey, it is imperative that Texans unite to prepare for potentially sudden and violent acts of Mother Nature. We also experience the dangers and devastating cost of flash flooding and river flooding year round, such as the destructive Memorial Day floods of 2015. Flash flooding is the number one cause of weather-related damage, and sadly, Texas often leads the nation in flood-related deaths, many of which are preventable; and

Whereas, Thankfully, the Lone Star State is home to the most resilient, caring, and hardworking people in the world. Together, we have weathered these hardships with exceptional courage and with the can-do Texas spirit that has helped us lift each other up in times of turmoil. However, there is always more that can be done to improve how we prepare for, respond to, and keep our families safe from flooding; and

Whereas, While dangerous floods are possible throughout the year, they often have a greater frequency during spring and summer thunderstorms and hurricane season. Intense rainfall or slow-moving storms that track over the same areas can cause a rapid rise of water, and flash floods can develop within minutes. All Texans should take simple steps toward greater flood awareness, such as knowing whether you live in a floodplain and where you can find reliable and accurate forecasts or hazardous weather updates in case of an emergency. We must all take greater personal responsibility of our choices when faced with hazardous weather conditions and always make the decision that will ensure our safety. The National Weather Service's widely recognized "Turn Around, Don't Drown" campaign has helped save lives by educating the public about the dangers of driving or walking through flood waters. Remember, it only takes half a foot of fast-moving water to knock an adult off their feet, and a mere two feet of rushing water to carry away large vehicles like buses; and

Whereas, In Texas, organizations and communities conduct a flood awareness campaign during a week in May. This campaign is dedicated to ensuring Texans better understand and are better prepared for flooding by providing citizens with educational materials, as well as encouraging Texans to wear blue, as organizations like the Texas Floodplain Management Association do, to enhance the visibility of this campaign.

Whereas, At this time, I encourage all Texans to educate themselves and their families for flood safety and flood awareness. By being aware of and prepared for flooding, we can create a safer future for the Lone Star State.

Now, Therefore, I, Debra Davison, Mayor of the City of Manvel, Texas do hereby proclaim May 23-27, 2022, to be



"Flood Awareness Week"

In the City of Manvel, Brazoria County, Texas, and urge the appropriate recognition hereof.

In witness thereof, I have hereunto set my hand and caused the seal of the City of Manvel to be affixed.

Debra Davison, Mayor
May 16, 2022

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

LARRY AKERY, COUNCIL PLACE 1
LORRAINE HEHN, COUNCIL PLACE 2
NICCOLE TYSON, COUNCIL PLACE 3
DAN DAVIS, COUNCIL PLACE 4
JASON ALBERT, COUNCIL PLACE 5
JEROME HUDSON, COUNCIL PLACE 6



DEBRA DAVISON, MAYOR
KYLE JUNG, CITY MANAGER
TAMMY BELL, CITY SECRETARY

MINUTES 5/2/2022

Workshop Session

Mayor Davison called the workshop of the Manvel City Council to order at 6:30 p.m.
Those in attendance were:

Present: Mayor Debra Davison
City Council Member Place 1 Larry Akery
City Council Member Place 2 Lorraine Hehn
City Council Member Place 3 Niccole Tyson
City Council Member Place 4 Dan Davis
City Council Member Place 5 Jason Albert
City Council Member Place 6 Jerome Hudson

Absent: None

Also Present: Kyle Jung, City Manager
Robert Gervais, City Attorney
Keith Traylor, Chief of Police
Gilbert Salas, Director of Community Services
Brooke Cyphers, Public Information Officer
Alyssa Deaton, Assistant City Secretary

Discussion on any subject as listed on the Agenda dated 5/2/2022.
Items 1, 2, 3, and 6 were discussed.

Mayor Davison adjourned the Workshop at 6:47 p.m.

Regular Session

Call To Order

Mayor Davison called the meeting of the Manvel City Council to order at 7:03 p.m.
Those in attendance were:

Present: Mayor Debra Davison
City Council Member Place 1 Larry Akery
City Council Member Place 2 Lorraine Hehn
City Council Member Place 3 Niccole Tyson
City Council Member Place 4 Dan Davis
City Council Member Place 5 Jason Albert
City Council Member Place 6 Jerome Hudson

Absent: None

Also Present: Kyle Jung, City Manager
Robert Gervais, City Attorney
Keith Traylor, Chief of Police
Gilbert Salas, Director of Community Services
Brooke Cyphers, Public Information Officer
Alyssa Deaton, Assistant City Secretary

Inspirational Reading - Council Member Tyson

Pledge

Citizen Comments: "Comment Card" Required

A petition with 317 signatures supporting a full variance for the AISD Booth Barn expansion was provided to Mayor Davison from Amanda Mount.

Dominga Meyer -

Requests that council deny variance. Lives next to the barn and there have been issues with lack of upkeep, high grass, flies, snakes, etc. Also doesn't want more traffic.

Daniel Combs -

Representing AISD for variance request.

The following spoke in favor of a full variance for the AISD Booth Barn expansion:

Bree Clark, Elizabeth Stavinoha, LeJoy Dickens, Benjamin Mooney, Brenda Ross, Bre Whitehead, Lauryn Butler, Kenneth Mount, Amanda Mount, Helen Mount, Alyssa Whitehead, Ryan Sheffield

Roni White - Leedy Estates resident

Upset about double yellow lines on Masters Rd, understands they were painted in error, but hopes it is corrected soon. Is concerned with bicyclists and feels they are a major safety hazard for motorists.

George White -

Expressed the same concerns as Roni White.

Adrian Gaspar -

Would like City Council to revisit ordinance about bringing dirt on your property for flooding protection

Mary Ann Atkinson -

Expressed that she feels the Manvel PD should have an Animal Control Officer.

Ben MacMillan - Pollard Drive resident

Concern over new offshoot for Valencia development that backs up to his property. Wants to make sure there's proper drainage so that he and his neighbors will not be at risk for flooding. Also basic security and privacy. Would like to express his support for the ag barn as well.

Presentation

Proclamations:

National Police Week - May 15, 2022 - May 21, 2022

National Public Works Week - May 15, 2022 - May 21, 2022

City Manager Update

Covid numbers since last meeting -

6,295 total cases, up 17

Down 1 confirmed

0 probable

18 recoveries

No new deaths

Regular Agenda

1. Consideration and possible action to appoint the following to the Zoning Board of Adjustment for a two-year term;
 - a. Raf Lopez (Re-appointment)
 - b. George Collins (Re-appointment)
 - c. Kim Bickham (Re- appointment)
 - d. Mary Ann Atkinson
 - e. Ron Keels

Council Member Dan Davis made the motion to approve. Council Member Jerome Hudson seconded the motion.

The motion **carried** with a vote: 7/0

Yes: Mayor Debra Davison, City Council Member Place 1 Larry Akery, City Council Member Place 2 Lorraine Hehn, City Council Member Place 3 Niccole Tyson, City Council Member Place 4 Dan Davis, City Council Member Place 5 Jason Albert, City Council Member Place 6 Jerome Hudson

No: None

Absent: None

Abstained: None

2. Consideration and possible action to approve a variance to the Subdivision Ordinance Chapter 62, Section 62-11, "*Additional Street Requirements*" for property located at 7401 Lewis Lane and authorize the Mayor to execute the Development Agreement. (Tabled on 4/4/2022, and 4/18/2022)

Jason Albert -

Stands behind that the AISD should have known that this was a requirement. It's not us against the ag center, the point is that the city has rules. But, what's changed for him is that he went out there and sees that there are houses directly across the street and they didn't put any money towards a road. We didn't make AISD escrow when they did Hensler, so the reality is that if the road is ever actually built, which he believes it won't, the city will be on the hook anyway for a large amount of the cost. Does not believe the road will ever be built and that the thoroughfare plan needs to be reevaluated. In strong support that the variance includes conditions that the AISD sets the right-of-ways to what the thoroughfare says they need to be at.

Dan Davis -

Agrees with Jason and doesn't believe there should be any conditions besides the designation of the proper right-of-way.

Lorraine Hehn -

Still of the opinion that they should have known. Addresses the public and states that by asking us to do this, we would be paying on behalf of AISD, which covers schools outside of the City of Manvel. Ultimately, the school district deals with their money, and we deal with ours. An entire city having to pay for something that benefits the entire district. Our decisions are difficult because we have to stretch our dollar to make sure we are being a good steward with taxpayer money. Feels the school should take some responsibility for this at some point.

Jason Albert -

Thinks this is a happy accident. If the school fully comprehended up-front, they wouldn't even have done this. This allowed it to be brought to his awareness and realization that at this point, in this particular deal, down the road we could find another way to pay for it. The school district will also not have an excuse moving forward about their responsibilities. Would like the council to invest in these kids and kick the can on the road down the line to be dealt with later. Also wants the district to be on notice that with the comments surrounding code enforcement on the property, they need to address those issues.

Mayor Debra Davison -

This is not our council against the FFA. This is two governmental entities doing their very best to solve an issue that can be solved in making an agreement to compromise. Believes that this impassioned petition should've been directed to the AISD board. The issue is the district, as the developer of the land, has been asked to build the road and this is no different than is required of any developer. This rule and these ordinances are the mechanism to build out our city without the incredible burden to our taxpayers. We have offered a 10-15 year period and to-date, we have never offered that long to any developer. If the district does not agree to pay for the roads, the burden is shifted to the citizens of Manvel. Think about how big the district of AISD is. Now consider the difference between the residents throughout the district sharing the amount these roads will cost with the citizens of only Manvel paying for them. That is what we're being asked to do. I took an oath, I am responsible for making good decisions and particularly when my decision would cost our taxpayers to the benefit of another entity. This is millions of dollars.

Kyle Jung -

The dedication of the ROW is part of the requirement of platting. If you're going to tie it to a future bond, the voters in the district would have to approve it.

Jason Albert -

If we don't make them escrow today and we absolve them of their responsibility to build the road, it's still not a complete loss for us because by them platting and them giving us the ROWs, then we get them for free. Today, that property is not platted, which is why we're here to begin with. If we wanted to build that road today, we don't have the ROWs - we would have to pay for the road and we would have to buy the land.

Council Member Dan Davis made the motion to approve the AISDs variance request to waive the requirement to construct any of the perimeter roadways. Council Member Jason Albert seconded the motion.

The motion **carried** with a vote: 6/1

Yes: Mayor Debra Davison, City Council Member Place 1 Larry Akery, City Council Member Place 3 Niccole Tyson, City Council Member Place 4 Dan Davis, City Council Member Place 5 Jason Albert, City Council Member Place 6 Jerome Hudson

No: City Council Member Place 2 Lorraine Hehn

Absent: None

Abstained: None

3. Consideration and possible action to approve an Interlocal Agreement between Brazoria County and City of Manvel (IS22-0009) for County assistance to provide labor and equipment to repair FY 22 roads as listed on the Project Request Summary.

Council Member Dan Davis made the motion to approve. Council Member Niccole Tyson seconded the motion.

The motion **carried** with a vote: 7/0

Yes: Mayor Debra Davison, City Council Member Place 1 Larry Akery, City Council Member Place 2 Lorraine Hehn, City Council Member Place 3 Niccole Tyson, City Council Member Place 4 Dan Davis, City Council Member Place 5 Jason Albert, City Council Member Place 6 Jerome Hudson

No: None

Absent: None

Abstained: None

4. Consideration and possible action to approve the Retail Water and Wastewater Agreement between the City of Manvel and Brazoria County Municipal District No. 57.

Council Member Jerome Hudson made the motion to approve. Mayor Debra Davison seconded the motion.

The motion **carried** with a vote: 7/0

Yes: Mayor Debra Davison, City Council Member Place 1 Larry Akery, City Council Member Place 2 Lorraine Hehn, City Council Member Place 3 Niccole Tyson, City Council Member Place 4 Dan Davis, City Council Member Place 5 Jason Albert, City Council Member Place 6 Jerome Hudson

No: None

Absent: None

Abstained: None

5. Consideration and possible action to approve 2022 Amended and Restated Development Agreement for Wastewater Treatment Plant between the City of Manvel, Brazoria County MUD 29, and Brazoria County MUD 47.

Council Member Jason Albert made the motion to table. Council Member Dan Davis seconded the motion.

The motion **carried** with a vote: 7/0

Yes: Mayor Debra Davison, City Council Member Place 1 Larry Akery, City Council Member Place 2 Lorraine Hehn, City Council Member Place 3 Niccole Tyson, City Council Member Place 4 Dan Davis, City Council Member Place 5 Jason Albert, City Council Member Place 6 Jerome Hudson

No: None
Absent: None
Abstained: None

6. Consideration and possible action to approve Resolution 2022-R-04;
A RESOLUTION OF THE CITY OF MANVEL, TEXAS, ADOPTING RULES OF PROCEDURE FOR MEETINGS OF THE CITY COUNCIL; PROVIDING THAT ALL OTHER RESOLUTIONS INCONSISTENT OR IN CONFLICT HERewith ARE HEREBY REPEALED.

Council Member Dan Davis made the motion to approve. Council Member Jerome Hudson seconded the motion.

The motion **carried** with a vote: 7/0

Yes: Mayor Debra Davison, City Council Member Place 1 Larry Akery, City Council Member Place 2 Lorraine Hehn, City Council Member Place 3 Niccole Tyson, City Council Member Place 4 Dan Davis, City Council Member Place 5 Jason Albert, City Council Member Place 6 Jerome Hudson

No: None
Absent: None
Abstained: None

Consent Agenda

1. Acceptance of the Meeting Minutes to date.
2. Acceptance of the infrastructure improvements to begin the one year Maintenance Period for the following;
*Meridiana Section 28A
*Cumulus Drive Phase 2
*Detention Basin U
3. Approve the second and final reading of Ordinance 2022-O-13;
AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MANVEL, TEXAS, CHAPTER 53. "SIGNS" BY REVISING SECTION 53-10(2) PERTAINING TO THE REMOVAL OF POLITICAL SIGNS AFTER AN ELECTION; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000.00 FOR ANY VIOLATION OF ANY PROVISION OF THIS ORDINANCE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HERewith; AND PROVIDING FOR SEVERABILITY.
4. Approve the 2020 TIRZ #3 Annual Report (approved by the TIRZ #3 and SM DA Boards on 4/27/2022).

Council Member Jason Albert made the motion to approve the Consent Agenda. Council Member Niccole Tyson seconded the motion.

The motion **carried** with a vote: 7/0

Yes: Mayor Debra Davison, City Council Member Place 1 Larry Akery, City Council Member Place 2 Lorraine Hehn, City Council Member Place 3 Niccole Tyson, City Council Member Place 4 Dan Davis, City Council Member Place 5 Jason Albert, City Council Member Place 6 Jerome Hudson

No: None
Absent: None
Abstained: None

Mayor and Council Comments

Adjourn

Council Member Dan Davis made the motion to adjourn. Council Member Jerome Hudson seconded the motion.

The motion **carried** with a vote: 7/0

Yes: Mayor Debra Davison, City Council Member Place 1 Larry Akery, City Council Member Place 2 Lorraine Hehn, City Council Member Place 3 Niccole Tyson, City Council Member Place 4 Dan Davis, City Council Member Place 5 Jason Albert, City Council Member Place 6 Jerome Hudson

No: None
Absent: None
Abstained: None

The meeting adjourned at 8:44 p.m.

CERTIFICATION

DEBRA DAVISON, MAYOR
CITY OF MANVEL, TEXAS

TAMMY BELL, CITY SECRETARY
CITY OF MANVEL, TEXAS

ORDINANCE NO. 2022-O-18

AN ORDINANCE AMENDING ORDINANCE NO. 2021-O-29 AMENDING THE CITY FISCAL YEAR 2022 BUDGET ENDING SEPTEMBER 30, 2022, BY AMENDING THE GENERAL FUND TO ACCOUNT FOR COUNCIL PAY AND REALLOCATION OF EXPENSES IN THE FIRE MARSHAL/CODE ENFORCEMENT DEPARTMENT DIRECTING THE BUDGET OFFICER TO FILE OR CAUSE TO BE FILED A COPY OF THE AMENDED BUDGET WITH THE CITY SECRETARY AND WITH THE OFFICE OF THE BRAZORIA COUNTY CLERK AND PROVIDING THIS ORDINANCE SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.

WHEREAS, by Ordinance No. 2021-O-29, the City Council of the City of Manvel, Texas, adopted its original budget for Fiscal Year ending September 2022; and

WHEREAS, by Ordinance No. 2021-O-32, 2022-O-04, 2022-O-11, and 2022-O-12 the City Council of the City of Manvel, Texas, amended its budget for Fiscal Year ending September 2022; and

WHEREAS, Texas Local Government Code §102.010 provides that a municipality may make changes in the budget for municipal purposes; and

WHEREAS, the General Fund budget amendment is needed to account for Council Pay as a result of the Special Election held on May 7, 2022; and

WHEREAS, the General Fund budget amendment is needed to account for the reallocation of expenses for the Fire Marshal/Code Enforcement department to accurately reflect having filled vacant positions; and

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

SECTION 1: That the facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct. The City Council deems the purpose for this budget amendment is a municipal purpose.

Line Item	Description	Current Budget	Increase	Decrease	Amended
10.09.4999	Transfer In - Fund Balance	\$947,738.00	\$12,400.00		\$960,138.00
10.10.5621	Council Pay	\$0.00	\$12,400.00		\$12,400.00
10.70.5000	Salaries	\$332,731.00		\$47,000.00	\$285,731.00
10.70.5035	Cell Phone Allowance	\$0.00	\$1,000.00		\$1,000.00
10.70.5225	Fuel	\$4,000.00	\$3,000.00		\$7,000.00
10.70.5230	Office Expense	\$3,000.00	\$3,000.00		\$6,000.00

10.70.5240	Minor Tools & Equipment	\$10,000.00	\$5,000.00	\$15,000.00
10.70.5440	Computer Maintenance/Support	\$7,500.00	\$5,000.00	\$12,500.00
10.70.5800	Professional Services	\$0.00	\$30,000.00	\$30,000.00

SECTION 2: That the budget for Fiscal Year ending September 30, 2022, of the City of Manvel, Texas, is hereby amended as follows;

SECTION 3: That this Ordinance shall be finally passed and adopted on the date of its introduction and shall become effective from and after its passage and adoption.

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 2022.

Debra Davison, Mayor

ATTEST:

Tammy Bell, City Secretary



MANVEL CITY COUNCIL DATA SHEET

MEETING DATE: May 16, 2022

TOPIC: Public hearing regarding amending the zoning ordinance by changing the zoning classification of 1.24 acres of land located at 22303 State Highway 6, Manvel, Texas, from Light Commercial District/State Highway 6 Overlay District (LC/SH6) to Light Commercial District/State Highway 6 Overlay District with Specific Use Permit (LC/SH6-SUP) authorizing NAICS Use Nos. 811111 “General Automotive Repair” and 811121 “Automotive Body, Paint, and Interior Repair and Maintenance”.

BACKGROUND: The site has two existing buildings. One building was previously used for an automotive repair shop with 4,537.5 square feet and the other building was used for a game room with 5,050 square feet. The property owners would like to establish an automotive repair, paint, and body shop in the existing 4,537.5 square foot building. The proposed site plan illustrates five repair bays inside the building. The proposed elevation drawings illustrate two front door bays and one rear door bay. The existing parking lot does not appear to have striped parking spaces; however, the proposed site plan illustrates 12 parking spaces that include two handicapped parking spaces. The current property owner recently purchased the property and would like to continue the automotive repair use on the property and add an automotive paint and body use. The previous automotive use was legal non-conforming since the business was established prior to City-wide zoning. The current owners would like to establish the use legally on site so a SUP application was filed.

The City’s Major Thoroughfare Plan classifies State Highway 6 as a “major thoroughfare” with an ultimate right-of-way width of 120-feet. The subject property has two existing driveways on SH 6. According to the Institute of Transportation Manual (10th Edition), an automotive care use generates 3.11 per unit for 1,000 gross floor area. The traffic impact from the proposed use would be minimal on SH 6.

The Planning, Development and Zoning Commission held a Public Hearing on May 9, 2022. There was one speaker during the Public Hearing, Mr. Shyju Joseph. Mr. Joseph is the owner of the property and explained why he wanted to open an automotive repair business. The Commission’s discussion focused on a condition proposed by staff to prohibit existing driveway access to Mustang Bayou Road. Since the Commission meeting, staff has spoken with the owner and he has stated the Mustang Bayou Road driveway is gated and will remain gated. He also stated the driveway would only be used in the event cars need to be moved and would not be used as business patron access.

PD&Z RECOMMENDATION: The Planning, Development and Zoning Commission voted to recommend approval of Ordinance No. 2022-O-14 with conditions proposed by staff to City Council. The vote was four yeas to two nays.

STAFF RECOMMENDATION: City staff recommends approval of Ordinance No. 2022-O-14.

ATTACHMENTS: Staff Report and Ordinance No. 2022-O-14

FUNDING ISSUES

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

SUBMITTING STAFF MEMBER
Jessica Rodriguez

FINANCE DIRECTOR APPROVAL _____

CITY MANAGER APPROVAL _____





City Council Specific Use Permit Request

Agenda of:	May 16, 2022	Initiated By:	Jessica Rodriguez Dir. Development Services
Department:	Development Services	Presented By:	Jessica Rodriguez Dir. Development Services

Subject/Proceeding

Specific Use Permit (SUP) to establish an automotive repair, body, and paint use on 1.24 acres of land located at 22303 State Highway 6 in the Light Commercial District/State Highway 6 Overlay District (LC/SH6)

Exhibits

Zoning Vicinity Map, Staff Report, Site Photographs, Aerial Vicinity Map, Proposed Site Plan, Proposed Elevation Drawings, Property Survey, Applicant Letter, Application, Applicant Authorization Letter, and Public Hearing Notice

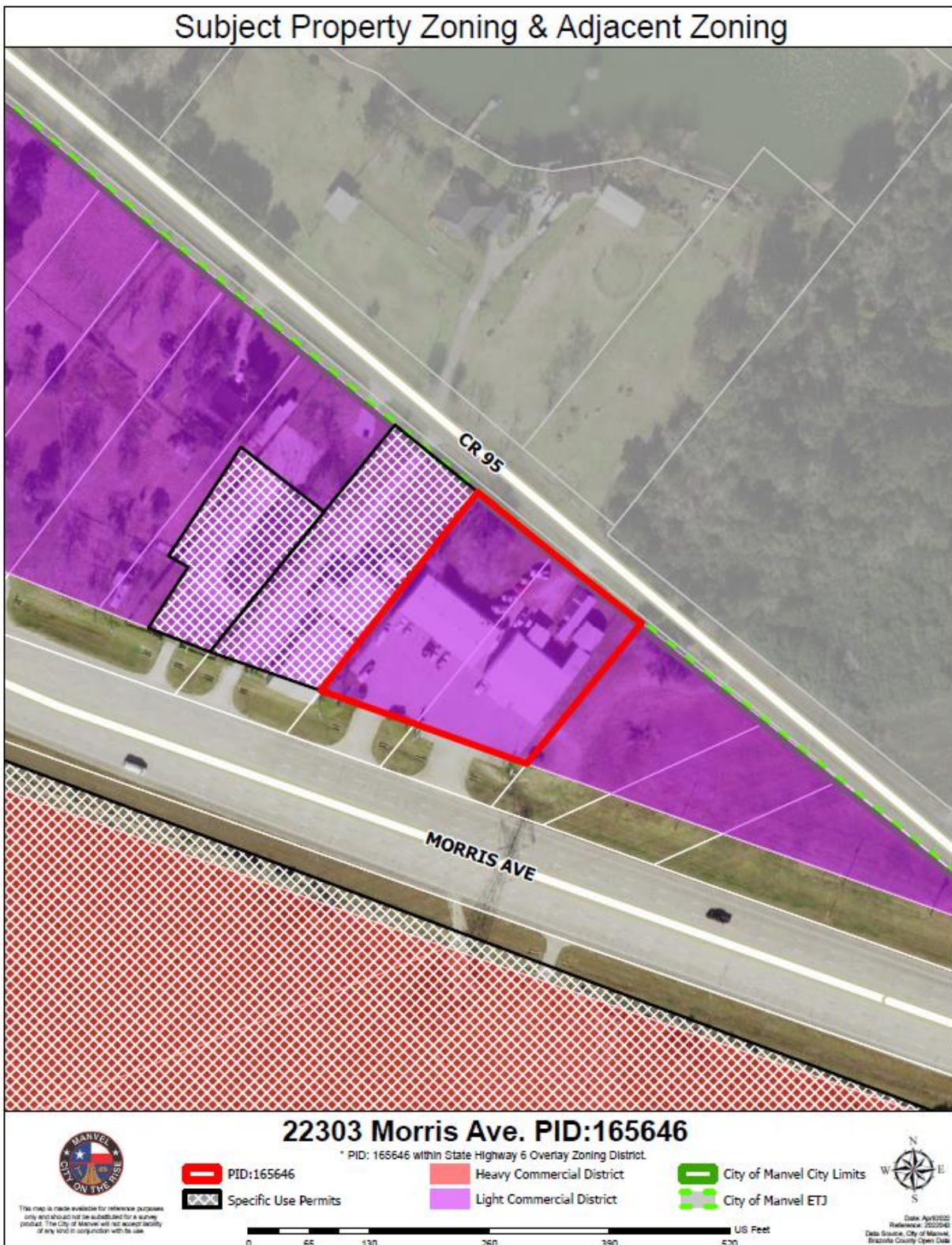
Recommended Action

A Public Hearing following by Consideration and Action from the City Council

Executive Summary

The owners, Shyju Joseph and Satish Pillai, are requesting a Specific Use Permit (SUP) for an automotive repair, body, and paint use located at 22303 SH 6. The property is 1.24 acres of land area and currently zoned Light Commercial District/State Highway 6 Overlay District (LC/SH6). The automotive repair use is classified as NAICS Use No. 811111 "General Automotive Repair" and the automotive body and paint uses are classified as NAICS Use No. 811121 "Automotive Body, Paint, and Interior Repair and Maintenance". The existing building located at 22303 SH 6 was used as an automotive repair shop but did not perform paint or body work. The property was recently sold to the above-mentioned owners and they would like to continue the automotive repair use and add automotive paint and body to the building. According to the owner's application letter, they do not intend to make any structural modifications to the building but rather move a new automotive repair business to the existing building. Staff overview of the proposed SUP is contained in the attached Staff Report section.

Zoning Vicinity Map



Staff Report

Zoning Ordinance Provisions for Specific Use Permits

In Section 77-50 (a). *Uses Requiring Specific Use Permit*, of the Zoning Ordinance it states “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 city council and planning, development and zoning 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 judgement relative to the location and site plan of the proposed use are required.”

In Section 77-50 (b) of the Zoning Ordinance it further states, “the city council, after receiving the recommendation of the planning, development and zoning commission, may by ordinance, grant a specific use permit 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.”

General Site Information

The following is a summary of general site information.

Surrounding Property Zoning	North: City of Manvel’s Extra Territorial Jurisdiction (ETJ) South: Heavy Commercial District/State Highway 6 Overlay District (HC/SH6) East: Light Commercial District/State Highway 6 Overlay District (LC/SH6) West: Light Commercial District/State Highway 6 Overlay District with SUP (LC/SH6-SUP)
Surrounding Land Use	North: Existing Single-Family Residence & RV Park (under construction) South: Vacant/Undeveloped East: Aztec Athletics & Michelada Sinaloa Manvel West: Vacant/Undeveloped

Overview

The subject property is located at 22303 SH 6 and is comprised of 1.24 acres of lot area. It is zoned Light Commercial District/State Highway 6 Overlay District (LC/SH6). The site has two existing buildings. One building was previously used for an automotive repair shop with 4,537.5 square feet and the other building was used for a game room with 5,050 square feet. The property owners would like to establish an automotive repair, paint, and body shop in the existing 4,537.5 square foot building. The property owner has not stated the proposed automotive repair use will expand or be utilized in the other building, nor has a site plan been presented to indicate such. The proposed site plan illustrates five repair bays inside the building. The proposed elevation drawings illustrate two front door bays and one rear door bay. The existing parking lot does not appear to have striped parking spaces; however, the proposed site plan illustrates 12 parking spaces that include two handicapped parking spaces.

The current property owner recently purchased the property and would like to continue the automotive repair use on the property and add an automotive paint and body use. The previous automotive use was legal non-conforming since the business was established prior to City-wide zoning. The current owners would like to establish the use legally on site so a SUP application was filed for NAICS Use Nos. 811111 “General Automotive Repair” and 811121 “Automotive Body, Paint, and Interior Repair and Maintenance”. The other building on subject property previously housed a game room use. The game room use was a legal non-conforming use too since it predated City-wide zoning. On March 25, 2022, the game room was shut down by Brazoria County Sheriff’s Office and put under investigation. The building remains vacant. According to the owner’s application letter, they would like to continue the automotive repair business and add a paint and body shop without structural modifications to the existing building.

The subject property abuts other commercial uses located east on SH 6, and vacant, undeveloped property to the west on SH 6. There is additional vacant, undeveloped property on the south side of SH6 across from subject property. The property located to the north and across Mustang Bayou Road is located in the City’s ETJ. The uses are single-family residential and a RV Park, which is under construction. The majority of properties on the north side of SH 6 west from Pine Street and east to the City Limits at CR 99 are zoned Light Commercial District/State Highway 6 Overlay District (LC/SH6). Properties to the south of SH 6 are majority zoned Heavy Commercial District/State Highway 6 Overlay District (HC/SH6).

The City’s Major Thoroughfare Plan classifies State Highway 6 as a “major thoroughfare” with an ultimate right-of-way width of 120-feet. The subject property has two existing driveways on SH 6 with one driveway on Mustang Bayou Road. According to the Institute of Transportation Manual (10th Edition), an automotive care use generates 3.11 per unit for 1,000 gross floor area. The proposed use would generate approximately 14 trip per day. The traffic impact from the proposed use would be minimal on SH 6.

The vision statement in the 2015 Comprehensive Plan seeks to maintain its rural character and small-town values while managing its growth by, “Benefiting from our strategic location by encouraging well planned quality retail, commercial and residential development that reflects and enhances our small-town quality of life”. The *Manvel 2015 Comprehensive Plan* stated smaller-scaled commercial development should be concentrated at the intersection of SH 6 and FM 1158. The City’s Official

Zoning Map supports the *Manvel 2015 Comprehensive Plan* because properties along SH 6 in the surrounding area are zoned Light Commercial District/State Highway 6 Overlay District (LC/SH6). The surrounding LC District zoned properties have been zoned as such when City-wide zoning was established, and properties were overlaid with the State Highway 6 Overlay District (SH6) in 2010 by Ordinance No. 200-O-32.

The property is located on SH 6, which is identified as a “major thoroughfare” (120-feet wide) on the City’s Major Thoroughfare Plan. The site is also zoned Light Commercial (LC) District and surrounded by other properties zoned LC and used commercially. The site also had a legal nonconforming use of an automotive repair shop prior to the purchase of the property by the current owners. Due to the property’s access to a major thoroughfare and surrounding commercially used and zoned property, the use of an automotive repair, paint and body shop is not out of character. Because the parking lot lacks a marked fire lane and striped parking spaces staff is making recommendations to improve said site conditions. Staff is also making a recommendation to provide an opaque fence and landscaping surround other properties on the east, west, and north sides to shield the business from existing single-family residences, other commercial uses, and the RV Park located on Mustang Bayou Road. Further, staff has also made recommendations for building façade, landscaping, and lighting improvements if new lighting is installed or if substantial improvement and/or redevelopment occur on site since the site is located in the State Highway 6 Overlay (SH6) District.

Staff Report Update

Since the Planning, Development and Zoning Commission meeting on May 9, 2022, staff has spoken with the applicant regarding the proposed condition to limit vehicular access to Mustang Bayou Road. The owner/applicant has stated the driveway gate will remain locked and only be used when needing to move cars, and the driveway on Mustang Bayou Road will not be used as access to the business.

Staff Recommendation

Staff recommends approval of NAICS Use No. 811111, “General Automotive Repair” and NAICS Use No. 811121 “Automotive Body, Paint, and Interior Repair and Maintenance” for an automotive repair, paint and body shop SUP request for 1.24 acres of property located at 22303 SH 6 with the following conditions:

1. Provide striped parking spaces per Section 77-45, *Parking*, before a Certificate of Occupancy is issued.
2. The property owner shall comply with Section 77-51, *Plan Review, Landscaping, and Building Façade Requirements*, façade requirements when redevelopment or substantial improvement occurs on site.
3. The property owner shall comply with Section 77-36, *State Highway 6 Overlay (SH-6) District requirements*, when redevelopment or substantial improvement occurs on site.
4. No new freestanding light fixture shall be greater than 25-feet in height.
5. All new outdoor lighting shall be designated so that no light spillover onto abutting property exceeds 0.3 foot-candle when measured vertically.
6. The ground-level luminance ratio shall not exceed 12 to one.
7. Any new lighting fixture mounted within 15-feet of a residentially used or zoned property line, public right-of-way, and the southern boundary line shall be classified as IES Type III or Type F (asymmetric forward throw), and fitted with a “house side shielding” reflector on the

side facing the residentially used or zoned property line, public right-of-way, and southern boundary line.

8. All new freestanding lighting shall provide “cut-off” fixtures that conform with the Illuminating Engineering Society of North America, which is 100 percent of light output below 90 degrees, and 90 percent of light output below 80 degrees from a vertical line through the fixture.
9. The site shall provide a 25-foot wide access easement thorough the front parking lot and connect with the eastern and western abutting properties.
10. The 25-foot wide access easement shall be marked as the fire lane.
11. The property shall provide a minimum five-foot landscape buffer along the west, north, and east side property lines. The landscape buffer shall provide a minimum 1.5-inch caliper tree (at time of planting and measured at the base of the tree) every 30 linear feet. The landscape buffer shall include fencing per Condition No. 13 (below).
12. The site landscaping shall be in accordance with Sections 77-44 and 77-51 of the zoning ordinance. The minimum tree caliper requirement in Section 77-44 shall not use multi-trunk trees to achieve minimum caliper size. Section 77-44 (1) (e) shall apply upon redevelopment of the front existing parking lot.
13. The site shall provide an eight-foot tall opaque fence using weather resistant wood species, wood treated with U.S. Environmental Protection Agency approved materials, painted wood, powder coated aluminum, brick, stone, or masonry on the east, north, and west property lines.
14. Driveway access from Mustang Bayou Road is prohibited.
15. A compliant trash enclosure per Section 77-36 is required before a Certificate of Occupancy is issued.
16. A parking lot, parking area, and Mustang Bayou Road driveway located behind the building (Mustang Bayou Road side) shall be concrete per design specifics of the City’s Design Criteria Manual.
17. The paint booth and mixing/storage area shall be approved per Fire Marshal and Fire Code regulations before a Certificate of Occupancy is issued.

Planning, Development and Zoning Commission Meeting Discussion

At the May 9, 2022, Planning, Development and Zoning Commission meeting, the Commission focused their discussion on staff’s proposed condition (no. 14) where access is prohibited to Mustang Bayou Road. Commissioner Alam wanted to know why driveway access would be denied on Mustang Bayou Road when there is an existing driveway. Staff explained the condition had been put in place to limit the number of cars on Mustang Bayou Road since there are other residences and a RV Park that only have access to Mustang Bayou Road to SH 6. Commissioner Rogers asked if Mustang Bayou Road was Quail Valley’s only access to SH 6. Staff stated it was the only ingress and egress to SH 6 for those residents.

Planning, Development and Zoning Commission Public Hearing

The Planning, Development and Zoning Commission held a Public Hearing at their May 9, 2022, meeting. During the Public Hearing there was one speaker, Mr. Shyju Joseph. Mr. Joseph stated he had purchased the property in December 2021 and would like to continue the use of an automotive

repair shop and add the paint and body shop use to the existing building. Mr. Joseph has an automotive repair shop in Stafford and would like to expand his business in Manvel.

Planning, Development and Zoning Commission Recommendation

At their May 9, 2022, meeting, the Planning, Development and Zoning Commission voted to recommend approval of Ordinance No. 2022-O-14 with conditions proposed by staff to City Council. The vote was four yeas to two nays.

City Council Public Hearing

The Notice of Public Hearing was published in the newspaper of general circulation. All property owners within 200 feet of the property were notified. At the time of writing this report, staff has not received informational inquiries and is not aware of opposition to the request.

Site Photographs



Subject property from SH 6 (existing building with automotive repair).



Subject property from SH 6 (existing building with closed game room).



RV Park under construction on the north side of Mustang Bayou Road.

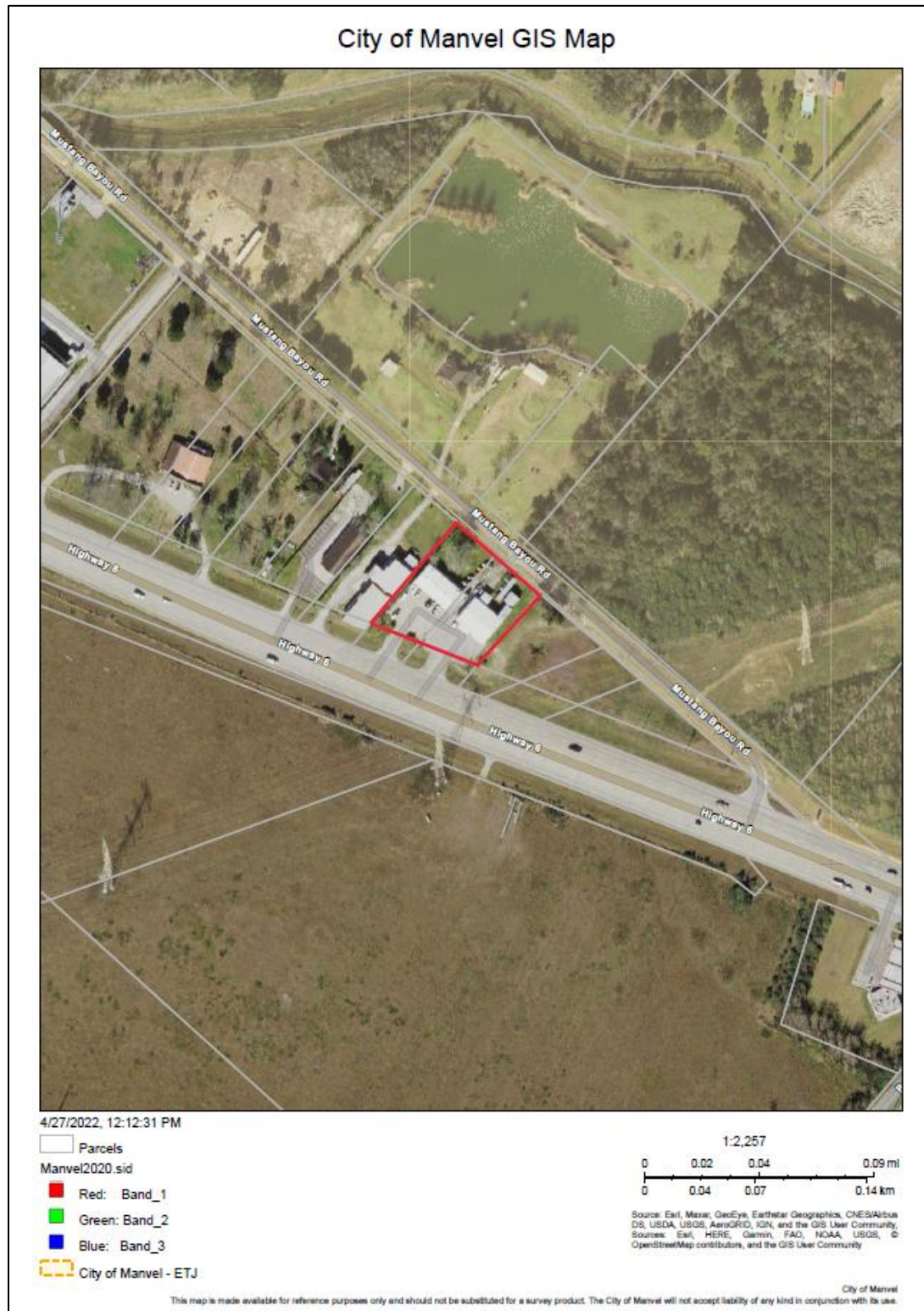


Abutting commercial property to the west (along SH6).

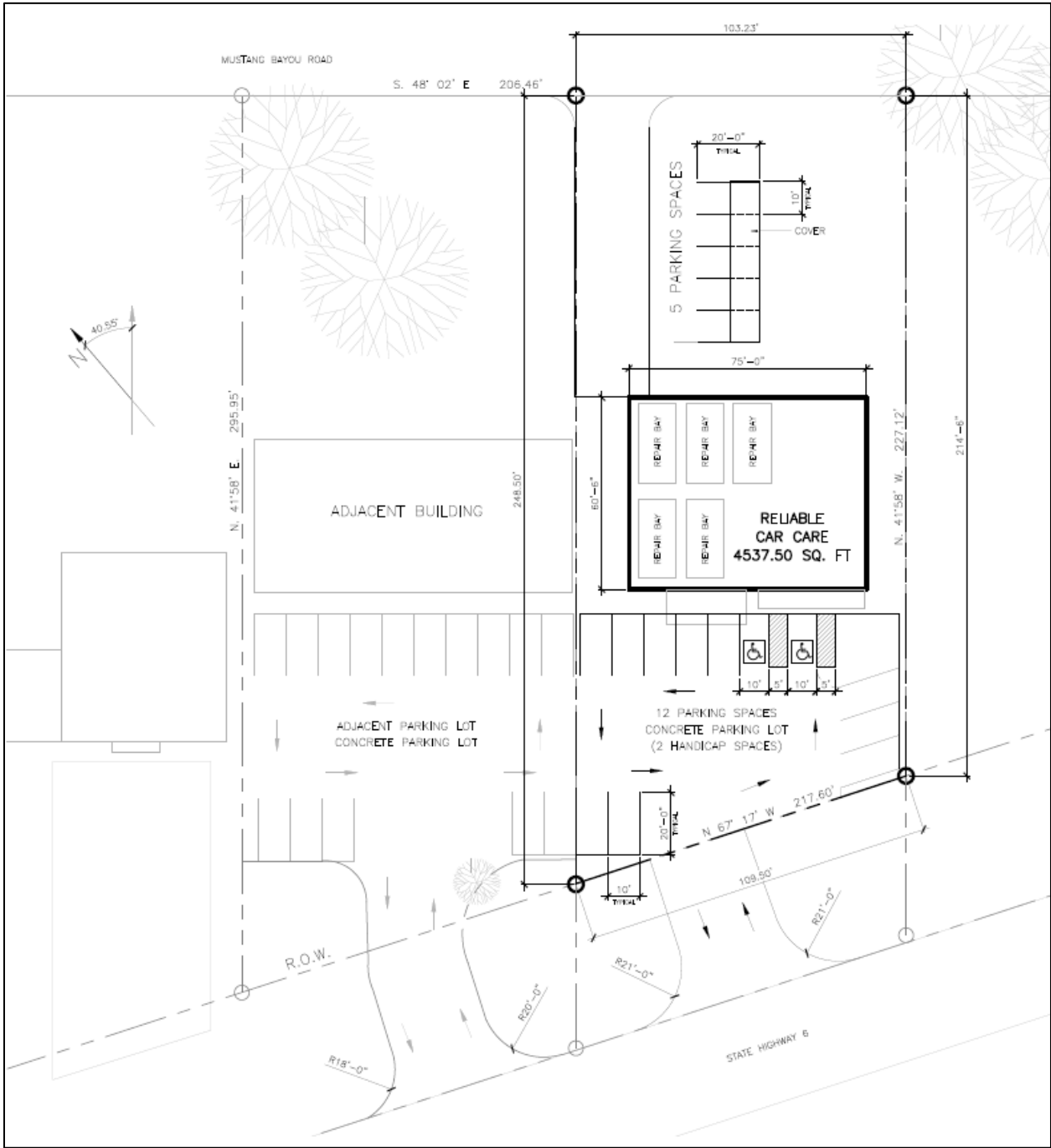


The rear of subject property from Mustang Bayou Road.

Aerial Vicinity Map



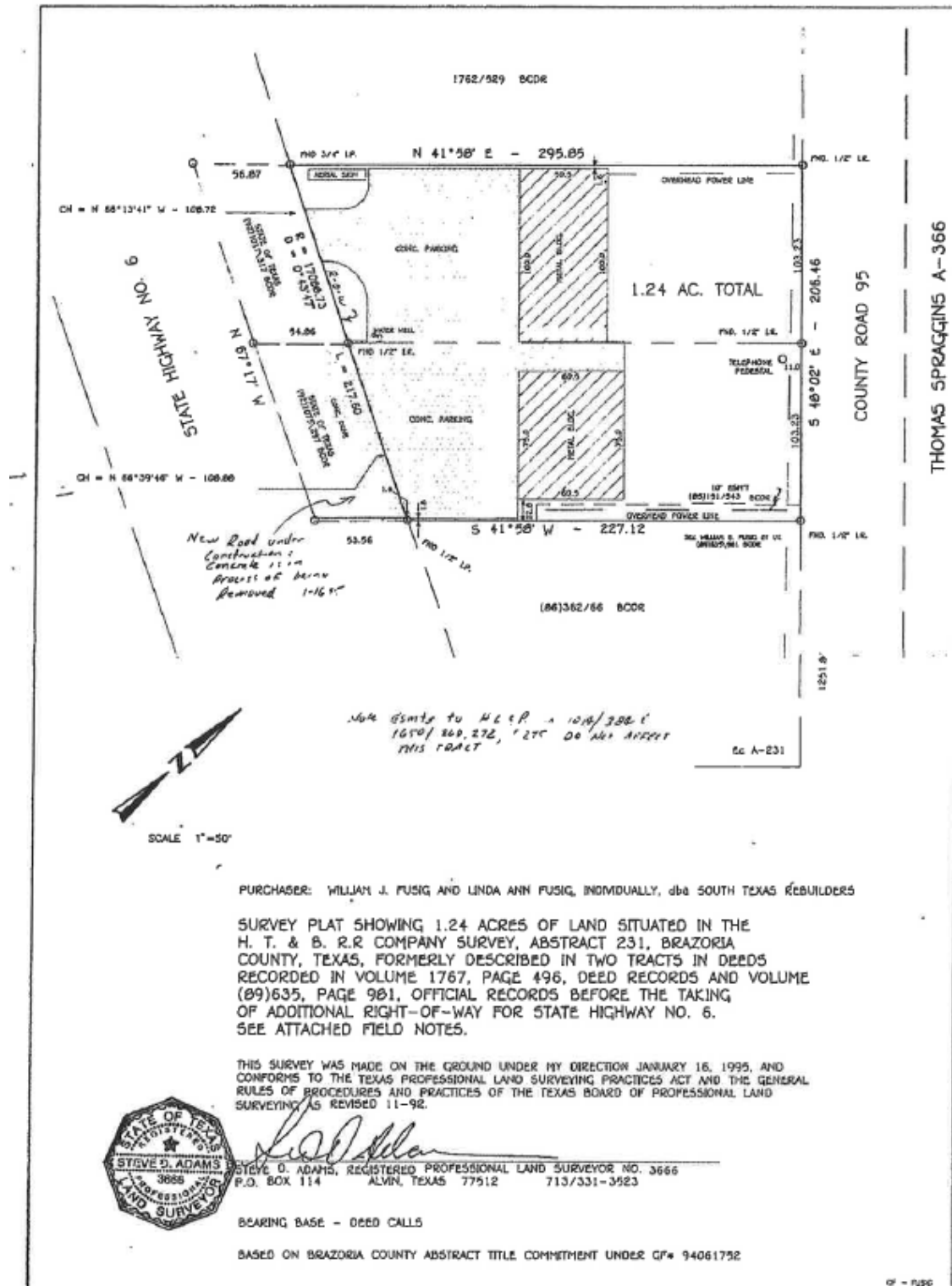
Proposed Site Plan



Proposed Elevation Drawings

[illegible]

Property Survey



Applicant Letter

RELIABLE CAR COMPANY
5215 RAIN TREE DR
MISSOURI CITY TX 77459
CITY OF MANVEL
DEVELOPMENT SERVICES
20025 HIGHWAY 6
MANVEL, TX 77578

REQUEST FOR CHANGE OF PERMIT NAIC CODE 811111 AND

NEW NAIC FOR NEW BODY AND PAINT CODE 811121

We, Shyju Joseph and Satish Pillai, submit this application for occupancy permit with existing NAIC code 811111 and a new body and paint code 811121 without any structural modifications.

This is a running business facility with NAIC code 81111

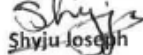
We have attached the following documents as you requested.

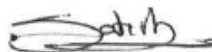
Copies Conceptual plan

Copies of recorded plat

Application fees

Thank you for processing our application and issue a perm


Shyju Joseph


Satish Pillai

Application



DEVELOPMENT SERVICES

20025 HIGHWAY 6
MANVEL, TX 77578
P: 281-489-0630
F: 281-489-0634

SPECIFIC USE PERMIT APPLICATION

PROJECT INFORMATION

Project Name: RELIABLE CAR CARE
Project Location/Address: 22303 HWY 6 MANVEL - TX - 77548
Legal Description: See Attached.
Current Zoning: LC Proposed Land Use: AUTOMOTIVE REPAIR NAICS No.: 81111 & 81121
Parcel/Tax ID# (s): 023110288145 Total Acreage: 1.24

APPLICANT INFORMATION

Applicant Name: SHYJU JOSEPH / SATISH PILLAI
Company Name: RELIABLE CAR COMPANY LLC
Address: 5215 RAIN TREE DR City: MISSOURI CITY State: TX Zip: 77459
Phone #: 832-715-8763 Email: Reliablecarcareinc@yahoo.com

This is to certify that the information on this form is COMPLETE, TRUE, and CORRECT, and I, the undersigned, am authorized to make this application on behalf of the owner(s). I understand that this application will expire one year from the date submitted.

Shyju 01-25-22
Applicant Signature (REQUIRED) Date

PROPERTY OWNER INFORMATION

Owner(s) Name: SHYJU JOSEPH / SATISH PILLAI
Address: 5215 RAIN TREE DR City: MISSOURI CITY State: TX Zip: 77459
Phone #: 832-715-8763 Email: Shyjuchoffice@yahoo.com

PROPERTY OWNER'S AUTHORIZATION (Required - If owner is also the applicant, must sign as both):

I am the owner of the property for which this application is being made. I authorize the above person (Applicant) to submit this application and to correspond with the City of Manvel regarding this application on my behalf.

Shyju Satish 01-25-22
Owner's Signature (REQUIRED) Date

Application



DEVELOPMENT SERVICES

20025 HIGHWAY 6
MANVEL, TX 77578
P: 281-489-0630
F: 281-489-0634

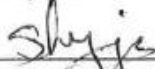
SUBMITTAL CHECKLIST

So that we may efficiently review your project in a timely manner, it is important that all required documents and fees listed on the "Submittal Checklist" below are submitted with your application. One or more of the required documents may be waived due to the nature of the development; however, it is incumbent upon the applicant to inquire about these exceptions for your project **before** submitting an application. Answers to specific use permit applications can be obtained by attending a pre-development meeting with our Development Review Committee (DRC) prior to submitting a formal application. Please call the phone number on the application to schedule an appointment. Submit application and accompanying documents to the Permits and Inspections at the address above Monday through Thursday between the hours of 7:30 a.m. and 5:30 p.m. and Friday between the hours of 7:30 a.m. and 11:30 a.m.

SPECIFIC USE PERMIT SUBMITTAL CHECKLIST ITEMS	REQUIRED (PLEASE CHECK)
Completed Specific Use Permit Application (with all signatures)	
Two (2) Copies of a Conceptual Plan (building, parking, landscaping, etc. locations)	✓
Two (2) Legal Descriptions of Property (metes & bounds description if not platted)	✓
Two (2) Copies of Recorded Plat (if platted)	✓
Two (2) Applicant Letters of Request	✓
Traffic Impact Analysis, (if applicable)	
Paid Application Fee	✓

APPLICANT CERTIFICATION

By signing below, I acknowledge that I have reviewed the Submittal Checklist and have included the required submittal items and reviewed them for completeness and accuracy. I also acknowledge that my application will be rejected if it is deemed incomplete.


Applicant Signature



01-25-22

Date

Applicant Authorization Letter



DEVELOPMENT SERVICES

20025 HIGHWAY 6
MANVEL, TX 77578
P: 281-489-0630
F: 281-489-0634

LETTER OF AUTHORIZATION

Have property owner complete and sign, if applicant differs from property owner.

SHYJU JOSEPH / SATISH PILLAI

Owner Name

5215 RAIN TREE DR

Owner Address

MISSOURI CITY - TX - 77459

Owner City, State

Zip

01-25-22

Date

Building and Inspections

20025 Highway 6

Manvel, TX 77578

Dear City of Manvel Permits and Inspections,

I, SHYJU JOSEPH, certify that I am the owner of the project property located at 22303 HWY 6 MANVEL - TX 77548 and that the forgoing statements and answers made and all data, information, and evidence herewith submitted are in all respects to the best of my knowledge and belief, true, and correct. I appoint SATISH PILLAI with the company _____ (if applicable) to act as my representative for this project. I agree to be responsible for payment of bills due to the City of Manvel related to this application. Furthermore, I understand that any material misrepresentation of this application, failure to comply with ordinances, and /or failure to remit payment for services can lead to delays in this project – up to and including rejecting the project and forfeiting any fees paid.

Please contact me directly at PH: 832-715-8763 if you have any questions.

Sincerely,

Owner Name SHYJU JOSEPH

Owner Signature Shyju

Public Hearing Notice

Public Hearing Notice to run on Sunday 03/13/2022

A PUBLIC HEARING WILL BE HELD AT MANVEL CITY HALL, 20031 HWY 6, MANVEL, TX, 77578 AT 7:00 P.M. ON MONDAY, MAY 9, 2022, BEFORE THE MANVEL PLANNING, DEVELOPMENT, AND ZONING COMMISSION AND AT 7:00 P.M. ON MONDAY, MAY 16, 2022, BEFORE THE MANVEL CITY COUNCIL TO HEAR INPUT FROM THE PUBLIC REGARDING AN ORDINANCE OF THE CITY OF MANVEL, TEXAS AMENDING THE ZONING CLASSIFICATION OF 1.24 ACRES LOCATED AT 22303 HIGHWAY 6, MANVEL, TEXAS, FROM LIGHT COMMERCIAL DISTRICT/STATE HIGHWAY 6 OVERLAY DISTRICT (LC/SH6) TO LIGHT COMMERCIAL DISTRICT/STATE HIGHWAY 6 OVERLAY DISTRICT WITH SPECIFIC USE PERMIT (LC/SH6-SUP); PROVIDING FOR THE GRANTING OF A SPECIFIC USE PERMIT WITH CONDITIONS TO AUTHORIZE THE USE OF PROPERTY FOR NAICS USE 811111 “GENERAL AUTOMOTIVE REPAIR” AND NAICS USE 811121 “AUTOMOTIVE BODY, PAINT, AND INTERIOR REPAIR AND MAINTENANCE”; PROVIDING FOR THE AMENDMENT OF THE CITY’S OFFICIAL ZONING MAP; PROVIDING FOR SEVERABILITY; AND PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF.

ORDINANCE NO. 2022-O-14

AN ORDINANCE OF THE CITY OF MANVEL, TEXAS AMENDING THE ZONING ORDINANCE OF THE CITY, BY AMENDING THE ZONING CLASSIFICATION OF 1.24 ACRES LOCATED AT 22303 HIGHWAY 6, MANVEL, TEXAS, FROM LIGHT COMMERCIAL DISTRICT/STATE HIGHWAY 6 OVERLAY DISTRICT (LC/SH6) TO LIGHT COMMERCIAL DISTRICT/STATE HIGHWAY 6 OVERLAY DISTRICT WITH SPECIFIC USE PERMIT (LC/SH6-SUP); PROVIDING FOR THE GRANTING OF A SPECIFIC USE PERMIT WITH CONDITIONS TO AUTHORIZE THE USE OF PROPERTY FOR NAICS USE 811111 “GENERAL AUTOMOTIVE REPAIR” AND NAICS USE 811121 “AUTOMOTIVE BODY, PAINT, AND INTERIOR REPAIR AND MAINTENANCE”; PROVIDING FOR THE AMENDMENT OF THE CITY’S OFFICIAL ZONING MAP; PROVIDING FOR SEVERABILITY; AND PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF.

* * * * *

WHEREAS, Shyju Joseph and Satish Pillai are the owners (the “Owners”) of a certain 1.24 acre tract of land located at 22303 Highway 6, Manvel, Texas, being land situated in the H.T. & B.R.R. Company Survey, Abstract 231, Brazoria County, Texas, a map and description of which is attached hereto as Exhibit “A”; and

WHEREAS, the 1.24 acre tract is currently zoned Light Commercial District/State Highway 6 Overlay District (LC/SH6); and

WHEREAS, the Owners have filed an application to change the zoning classification of the 1.24 acre tract to Light Commercial District/State Highway 6 Overlay District, with a Specific Use Permit (LC/SH6-SUP) allowing use of the Property for NAICS Use No. 811111 “General Automotive Repair” and NAICS Use No. 811121 “Automotive Body, Paint, and Interior Repair and Maintenance”; and

WHEREAS, the Planning, Development, and Zoning Commission and the City Council have conducted, in the time and manner required by law and the Zoning Ordinance of the City, a public hearing on such request; and

WHEREAS, the Planning, Development, and Zoning Commission has recommended in its report the approval of such request, and the City Council deems it appropriate to approve said amendment to the rezoning and specific use permit; 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. The zoning classification of a certain 1.24 acre tract of land located at 22303 Highway 6, Manvel, Texas, being land situated in the H.T. & B.R.R. Company Survey, Abstract 231, Brazoria County, Texas, as more particularly described in Exhibit “A” attached hereto, shall be changed from Light Commercial District/State Highway 6 Overlay District (LC/SH6) to Light Commercial District/State Highway 6 Overlay District with Specific Use Permit (LC/SH6-SUP), for uses as permitted within such zone classification, subject to the regulations, regulations, and conditions hereinafter set forth:

1. General Automotive Repair – (NAICS 811111)
2. Automotive Body, Paint, and Interior Repair and Maintenance – (NAICS 811121)

Section 3. The request meets the criteria set forth in Section 77-50 of the City of Manvel Zoning Ordinance for a Specific Use Permit. The City of Manvel Zoning

Ordinance is hereby further amended by granting an amended Specific Use Permit authorizing use of the Property for the additional NAICS uses listed in Section 2, above.

Section 4. The City Council hereby finds it appropriate to impose the conditions to the granting of the Specific Use Permit as shown in Exhibit “B”, attached hereto and incorporated herein as if set out in full. Use and Development of the Property shall comply with the conditions and with the site plan as shown in Exhibit “C”, attached hereto. The uses and site may not be changed or expanded except by amendment of this Specific Use Permit.

Section 5. The Specific Use Permit issued under this ordinance, or a specific use listed herein, shall expire one year after its date of issuance if construction or if the listed use authorized hereunder is not substantially under way or in use prior to the expiration of said one year period. If, prior to the expiration of such one year period, the owner of the property to which the Specific Use Permit applies in writing, for an extension, the City Council may, after recommendation from the Planning, Development, and Zoning Commission, grant such extension for one additional year.

Section 6. The Zoning District Map of the City of Manvel shall be revised and amended to show the designation of said multiple tracts, as described and as provided in Section 2, above, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of the change.

Section 7. The City Council hereby finds and determines that said rezoning comports to the City’s Comprehensive Land Use Plan. 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 in zoning classification of said tract(s) as described above.

Section 8. 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 9. 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.

Section 10. Revocation. This Specific Use Permit may be revoked or modified by the City Council, in whole or in part, 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.

PASSED AND APPROVED on first reading this _____ day of _____, 2022.

PASSED, APPROVED, AND ADOPTED on second and final reading this _____ day of _____, 2022.

Debra Davison, Mayor

ATTEST:

Tammy Bell, City Secretary

APPROVED AS TO FORM:

Robert Gervais, City Attorney

Exhibit A

Being 1.24 acre of land situated in the H.T. & B.R.R. Company Survey, Abstract 231, Brazoria County, Texas.

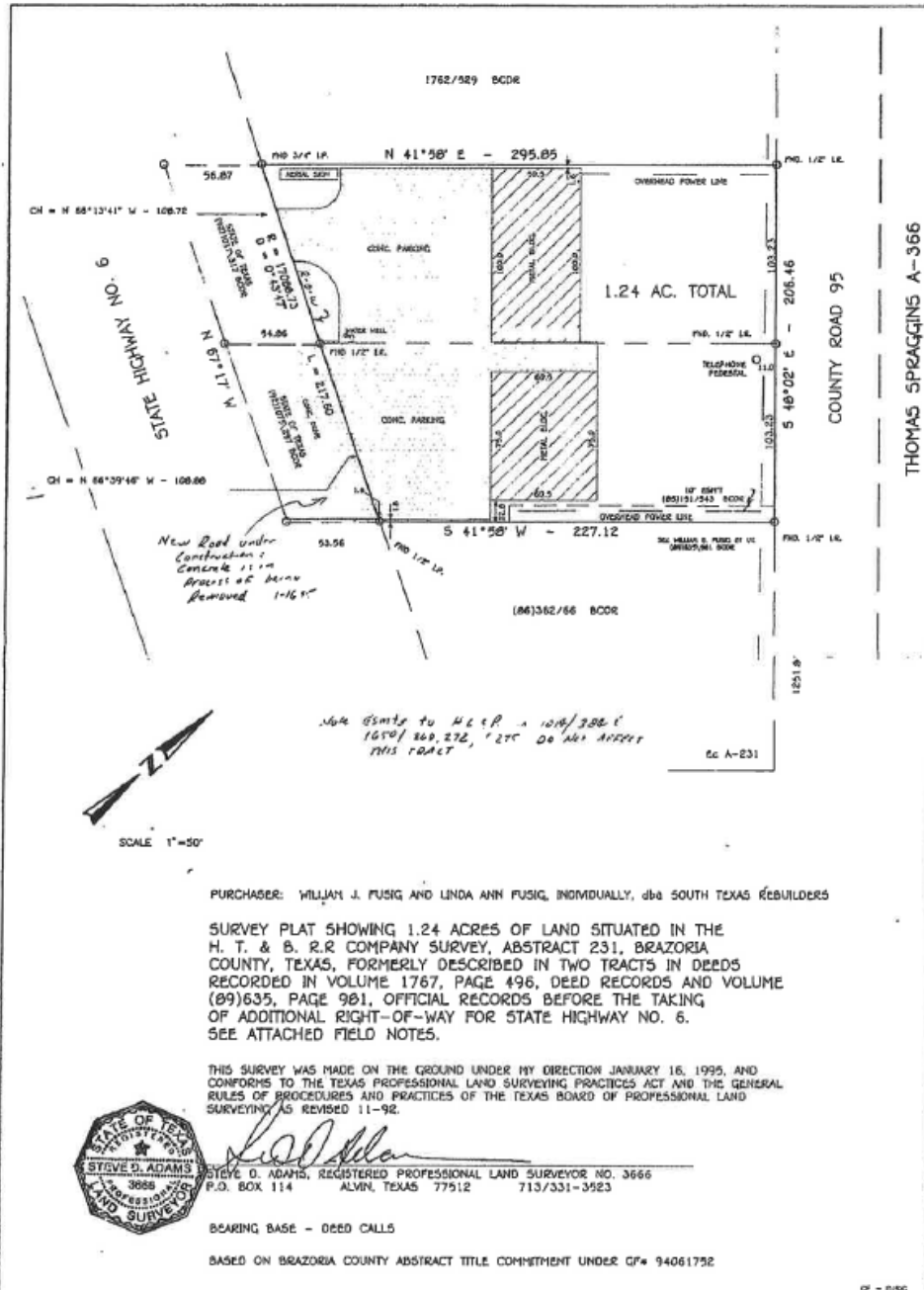


Exhibit B

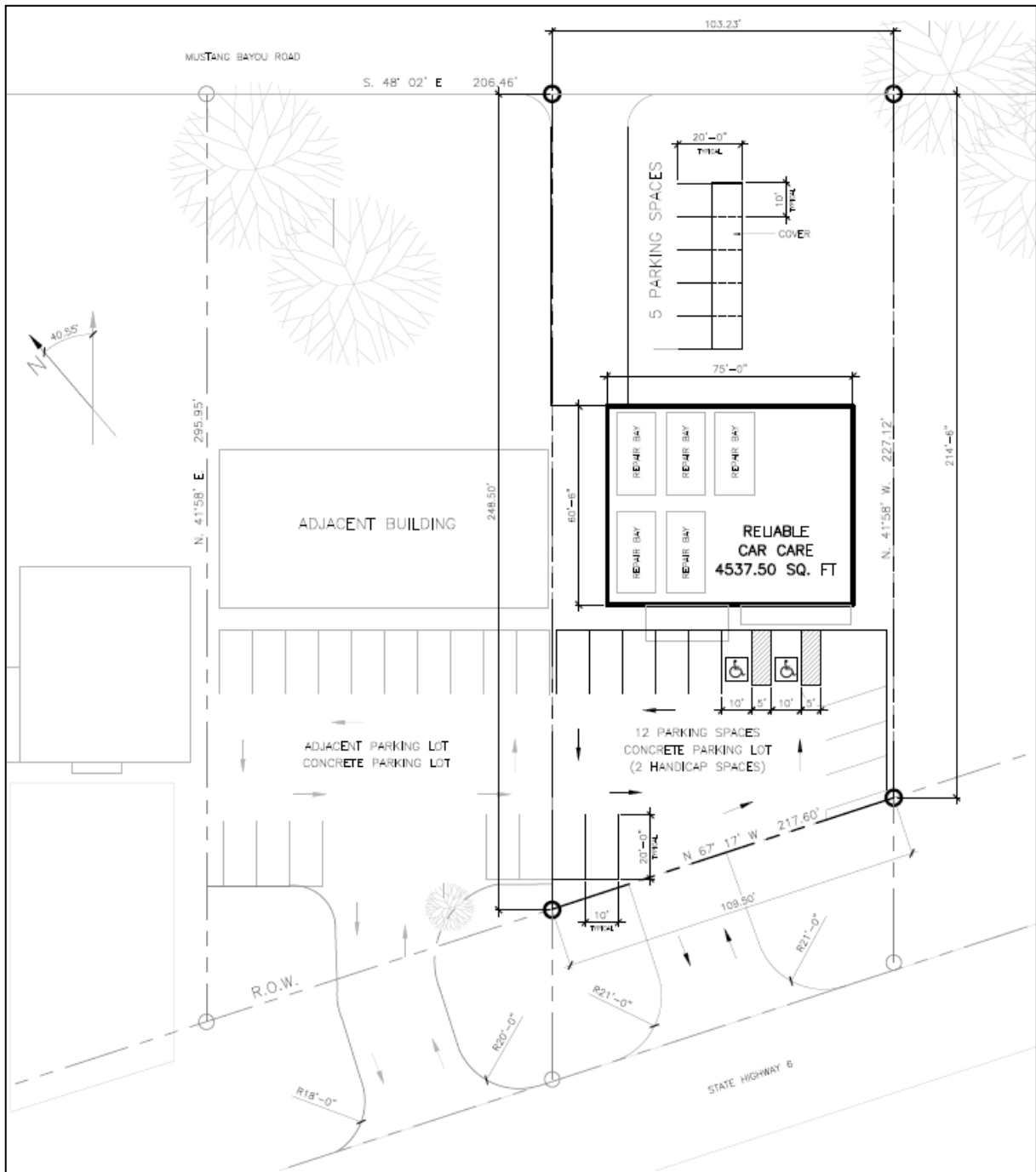
CONDITIONS FOR 22303 HIGHWAY 6 (GENERAL AUTOMOTIVE REPAIR &
AUTOMOTIVE BODY, PAINT, AND INTERIOR REPAIR AND MAINTENANCE
USES)

- (1) Provide striped parking spaces per Section 77-45, *Parking*, before a Certificate of Occupancy is issued.
- (2) The property owner shall comply with Section 77-51, *Plan Review, Landscaping, and Building Façade Requirements*, façade requirements when redevelopment or substantial improvement occurs on site.
- (3) The property owner shall comply with Section 77-36, *State Highway 6 Overlay (SH-6) District requirements*, when redevelopment or substantial improvement occurs on site.
- (4) No new freestanding light fixture shall be greater than 25-feet in height.
- (5) All new outdoor lighting shall be designated so that no light spillover onto abutting property exceeds 0.3 foot-candle when measured vertically.
- (6) The ground-level luminance ratio shall not exceed 12 to one.
- (7) Any new lighting fixture mounted within 15-feet of a residentially used or zoned property line, public right-of-way, and the southern boundary line shall be classified as IES Type III or Type F (asymmetric forward throw), and fitted with a “house side shielding” reflector on the side facing the residentially used or zoned property line, public right-of-way, and southern boundary line.
- (8) All new freestanding lighting shall provide “cut-off” fixtures that conform with the Illuminating Engineering Society of North America, which is 100 percent of light output below 90 degrees, and 90 percent of light output below 80 degrees from a vertical line through the fixture.
- (9) The site shall provide a 25-foot wide access easement thorough the front parking lot and connect with the eastern and western abutting properties.
- (10) The 25-foot wide access easement shall be marked as the fire lane.
- (11) The property shall provide a minimum five-foot landscape buffer along the west, north, and east side property lines. The landscape buffer shall provide a minimum 1.5-inch caliper tree (at time of planting and measured at the base of the tree) every 30 linear feet. The landscape buffer shall include fencing per Condition No. 13 (below).
- (12) The site landscaping shall be in accordance with Sections 77-44 and 77-51 of the zoning ordinance. The minimum tree caliper requirement in Section 77-44 shall not use multi-trunk trees to achieve minimum caliper size. Section 77-44 (1) (e) shall apply upon redevelopment of the front existing parking lot.
- (13) The site shall provide an eight-foot tall opaque fence using weather resistant wood species, wood treated with U.S. Environmental Protection Agency approved materials, painted wood, powder coated aluminum, brick, stone, or masonry on the east, north, and west property lines.
- (14) Driveway access from Mustang Bayou Road is prohibited.

- (15) A compliant trash enclosure per Section 77-36 is required before a Certificate of Occupancy is issued.
- (16) A parking lot or parking area located behind the building (Mustang Bayou Road side) shall be concrete per design specifics of the City's Design Criteria Manual.
- (17) The paint booth and mixing/storage area shall be approved per Fire Marshal and Fire Code regulations before a Certificate of Occupancy is issued.

Exhibit C

22303 HIGHWAY 6 SITE PLAN





MANVEL CITY COUNCIL DATA SHEET

MEETING DATE: May 16, 2022

TOPIC: Consideration and possible action to approve Ordinance No. 2022-O-16, which updates and clearly defines health and food safety standards for all mobile food and temporary food establishments that offer food to the public.

BACKGROUND: In order to ease comprehension and clarification, the mobile food (food truck) ordinance has been edited and updated to better serve the public. This includes addition and/or editing of definitions to strengthen the code, editing the format to mirror other ordinances, streamlining permit renewals, and clarifying previously unclarified health processes and permits, including processes for temporary food establishments and power failures.

RECOMMENDATION: The staff recommends approval of Ordinance No. 2022-O-16.

ATTACHMENTS: Ordinance No. 2022-O-16, Chapter 35, Article X, *Mobile and Temporary Food Vendors*, Final Draft, and Chapter 35, Article X, *Mobile and Temporary Food Vendors*, Redline Draft

FUNDING ISSUES

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

SUBMITTING STAFF MEMBER
Danielle Bryan

FINANCE DIRECTOR APPROVAL _____

CITY MANAGER APPROVAL _____

ORDINANCE NO. 2022-O-16

AN ORDINANCE AMENDING CHAPTER 35 “LICENSES AND SPECIAL BUSINESS REGULATIONS” OF THE CODE OF ORDINANCES OF THE CITY OF MANVEL, TEXAS, BY REPEALING THE CURRENT ARTICLE X “MOBILE FOOD VENDORS” AND ADOPTING A NEW ARTICLE X “MOBILE FOOD VENDORS” TO REGULATE MOBILE AND TEMPORARY FOOD VENDORS; AMENDING CHAPTER 35, ARTICLE VII “PEDDLERS, CANVASSERS, AND SOLICITORS”; REPEALING PROVISIONS IN CONFLICT THEREWITH; 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 to amend Chapter 35, Article X of the City Code by repealing the current Article X and adopting a new Article X to regulate mobile food vendors; and

WHEREAS, the City Council finds 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 35 of the Code of Ordinances of the City of Manvel is hereby amended by repealing the current Article X of Chapter 35.

Section 3. Chapter 35 of the Code of Ordinances of the City of Manvel is hereby amended by adopting a new Article X to read and provide as follows:

“Chapter 35 - LICENSES AND SPECIAL BUSINESS REGULATIONS

....

ARTICLE X. – MOBILE AND TEMPORARY FOOD VENDORS

Sec. 35-310. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Food hand cart means a food or drink vending station operating from a non-mechanical, movable cart that is pushed or pulled from one location to the next by hand (e.g. hot dog cart).

Mobile Food Unit (stationary) means a food or drink vending station operating from a mechanical vehicle or pulled trailer at a fixed location (e.g. food truck or taco truck).

Mobile Food Unit (mobile) means a food or drink vending station operating from a mechanical vehicle or pulled trailer that drives continuously, intermittently stopping for sales (e.g. ice cream truck).

Mobile food vendor means any person or entity engaged in selling or serving food or drink from a vehicle, booth or cart, including, but not limited to, operating any of the following:

- (1) Sidewalk stand; or
- (2) Food hand cart; or
- (3) Food truck (stationary); or
- (4) Food truck (mobile)

Sidewalk stand means a drink vending station operating from a non-mechanical booth or stand on or near the sidewalk or in the city right-of-way operated by a person under the age of 18, who only offers lemonade (e.g. lemonade stand).

Temporary food establishment means a food establishment that operates for a period of no more than ten (10) consecutive days in conjunction with a single event or celebration. This may include a stand or a booth.

Sec. 35-311. General prohibition.

Except where specifically authorized by this article, mobile food vendors of any type are expressly prohibited.

Sec. 35-312. Sidewalk stand.

Sidewalk stands are prohibited. There shall be an exception for temporary lemonade sidewalk stands operated by juveniles, which may be operated without a permit for a single period of up to eight hours, limited to one period within one calendar month.

Sec. 35-313. Food hand cart.

Food hand carts are prohibited. There shall be an exception for temporary operation for the following:

- (1) City events;

- (2) City approved or sponsored events; and
- (3) Private events (where admission is not open to the general public) on private property.

Sec. 35-314. Mobile Food Unit (stationary).

(a) Food trucks (stationary) are prohibited. There shall be an exception for temporary operation for the following:

- (1) City events;
- (2) City approved or sponsored events; and
- (3) Private events (where admission is not open to the general public) on private property.

(b) The following requirements shall apply to all stationary mobile food units that are specifically permitted under this article:

- (1) MFUs must be equipped with the following
 - a. Portable fire extinguishers selected and installed in accordance with NFPA 10 with a minimum 2A:10BC rating. An approved Class K fire extinguisher must be provided for protection of grease cooking fires. All fire extinguishers must have a current inspection/service tag from a licensed fire extinguishing company.
 - b. A Type 1 hood installed where cooking appliances produce grease or smoke as a result of the cooking process.
 - c. Beginning on October 1, 2019, an automatic fire extinguishing system installed to protect cooking equipment.
- (2) Inspection of mobile food units. At the time of the inspection, the mobile food unit shall be completely operable and in full working order.
- (3) Miscellaneous offenses. In addition to the regulations contained above, the following actions are prohibited by mobile food unit operators:
 - a. Operating without a valid servicing record or commissary receipt which must be kept within the mobile food unit at all times;
 - b. Selling or offering for sale non-food items from the mobile food unit;
 - c. Storing or preparing food outside of the mobile food unit (except in a licensed central preparation facility);
 - d. Displaying, selling, or serving food outside of the mobile food unit;
 - e. Altering the mobile food unit in such a manner that would prevent or otherwise reduce ready mobility;
 - f. Blocking public right-of-way, a dedicated fire lane, or a public sidewalk;
 - g. Creating/operating a drive-thru in conjunction with the mobile food unit;

- h. Allowing items such as brooms, hoses, equipment, containers or boxes to be located adjacent to or beneath the mobile food unit;
- i. Providing or allowing signs or banners not attached to and solely supported by the mobile food unit to be set up at the serving area;
- j. Allowing trash or debris at the site of the mobile food unit during operation, and leaving the site with trash or debris following operation;
- k. Allowing any audio speakers or amplification devices to be heard outside of the mobile food unit; or
- l. Allowing outside furniture such as tables or chairs, to be set up adjacent to the mobile food unit.

Sec. 35-315. Mobile Food Unit (mobile).

Food trucks (mobile) are prohibited.

- (1) There shall be an exception for temporary operation for the following:
 - a. Pre-packaged non-TCS food vendors; and
 - b. Ice cream trucks
- (2) **Food trucks** (mobile) shall not stand for more than fifteen (15) minutes at any one location and may not prepare or cook food or drink items on the vehicle (pre-packaged only).
- (3) **Food trucks** with music or a public address system shall not exceed 65 decibels.
- (4) **Food trucks** may only operate from dawn until dusk, except for events with extended hours as may be expressly authorized by the city manager or designee.
- (5) **Food trucks** may not vend from the second lane of traffic, and may not double park or impede traffic.

Sec. 35-316. Temporary food establishment

(a) Temporary food establishments are prohibited. There shall be an exception for the following:

- (1) City events;
- (2) City approved or sponsored events; and
- (3) Private events (where admission is not open to the general public) on private property

(b) The following requirements shall apply to a temporary food establishment vendor that are specifically permitted under this article:

- (1) Every temporary food establishment vendor must have a current valid health permit. Permits are nontransferable. Multiple vendors may not operate under one health permit.

- (2) Except where only prepackage food is offered, every temporary food establishment must have a handwashing station with warm water, soap, drying device, and a waste water retention basin in used before food preparation begins.
- (3) Except where only prepackaged food is offered, every temporary food establishment must have a three (3) compartment warewashing station, labeled (wash, rinse, sanitize), with basins large enough to accommodate the largest utensil.
- (4) Every temporary food establishment utilizing electricity and/or any type of fire element must have appropriate fire extinguisher. Vendors are not allowed to share.

Sec. 35-317. Basic requirements.

The following requirements shall apply to the mobile food unit vendors and temporary food establishment vendors that are specifically permitted under this article:

- (1) Permitted mobile food unit vendors shall operate only on a temporary basis. Temporary shall mean for eight (8) hours or as long as the city event or city-approved event is ongoing.
- (2) There shall be no water, wastewater or electric hookups to the adjacent property.
- (3) There shall be no overnight parking or operation.
- (4) Vehicles and booths must be marked with the vendor's name. No detachable signage shall be permitted for Mobile Food Units, except for one removable sandwich-board sign displaying product and/or pricing information.
- (5) All stationary mobile food unit vendors and temporary food establishment vendors must set out a trash can for patrons while present and must remove all trash from the premises upon departure. Vendor must not allow trash to spill over and must change out trash bags when trash can is full.
- (6) Vendors may not set up within 300 yards of a restaurant, except with express written consent of the restaurant owner. Vendors must have at least ten (10) feet clearance from any building, structure, vehicle, and any combustible materials. Vendors must not block fire lanes or fire access roads.
- (7) Only employees shall be allowed in food preparation areas. Nonessential persons shall not be within any food service, food preparations, or warewashing areas, including by not limited to children under the age of 18.
- (8) All food preparation, processing, and service shall be located in/on an approved surface (concrete, asphalt).
- (9) All vendors must meet minimum food safety standards, including
 - a. A supervisory person, who has a current valid food manager certificate, must be onsite at all times.
 - b. All food ingredients must be from an approved source, in sound condition, and must be properly stored 6 inches off the ground.

- c. A small diameter probe metal thermometer must be provided and all food must be stored at property temperatures.
 - i. Cold Food Holding shall not exceed 41 degrees Fahrenheit
 - ii. Hot Food Holding shall not be less than 135 degrees Fahrenheit
- d. All employees must wear hand protection and hair restraints when in food preparation/serving areas.
- e. Only single use articles may be provided for use by the consumer.
- f. All vendors in service for longer than two (2) hours must have access to a toilet facility.

(10) The city manager is authorized to sponsor and approve events on behalf of the city. In considering approval or sponsorship for the event, the city manager shall consider the following:

- a. The nature of the event, which must be open to the general public;
- b. Whether the organizers are in compliance with all city, county and state laws and regulations;
- c. Whether the organizers have the means, personnel, volunteers, and resources to have a successful event;
- d. Past history of events by the requesting organization, or similar events by other organizations, and whether there were any health, safety, or sanitation issues; and
- e. Such other characteristics of the event, including time of year, that may place a burden on city or local law enforcement or first responders.

Sec. 35-318. Permits and health requirements.

The following requirements shall apply to the mobile food vendors that are specifically allowed under this article:

(1) Health Permit.

- a. All mobile food units, mobile and stationary, must obtain a permit from the city. Each permit will be issued unit-by-unit only after an inspection reveals satisfactory compliance with state law and this article, as applicable. Mobile food unit permits are non-transferable. A change of ownership of a MFU, including a change of legal form of the entity, shall require submission of a new application for a mobile food unit health permit and inspections. A mobile food unit health permit shall become void upon the closing of the sale of the MFU for which a permit was issued. Such permits shall remain the property of the city. Permit fees shall be as prescribed by the city council.
- b. All temporary food establishment vendors, must obtain a permit from the city. Each permit will be issued vendor-by-vendor and may serve only after an inspection reveals satisfactory compliance with state law and this article, as

applicable. Such permits shall remain the property of the city. Permit fees shall be as prescribed by the city council.

- c. No person shall operate or cause to be operated any mobile food unit (mobile or stationary) or temporary food establishment which does not possess a valid health permit issued by the city. Any person, firm, or establishment who is found to have operated or caused operation without a valid health permit shall be deemed guilty of a misdemeanor and shall, upon conviction by a court of competent jurisdiction, be assessed fines or other punishment as provided by this Code.
 - c. Such permit shall be posted in a conspicuous place where it can be viewed by patrons and shall not be removed or defaced. A health permit issued to a Mobile Food Unit shall be affixed to the truck by the code enforcement officer/health officer. A permit shall set forth the business name, license plate number, mobile food unit license number, and expiration date for said license.
 - d. Every food truck must be readily identifiable by its business name and phone number that are printed, permanently affixed, and prominently displayed on the back of the unit and on the side of the unit from which food is served, in letters not less than three (3) inches in height.
 - e. Sidewalk stands, where allowed by this article, are exempt from permit requirements.
- (2) *Health regulations.* All vendors must obey and be in compliance with all state, county and city health laws and regulations. Compliance with these laws shall be a part of the city permit process.
- (3) *Food preparation.* No food may be stored or prepared at any location except on the MFU or at the temporary food establishment, in a licensed commissary, or permitted central processing facility as listed on the application submitted for the health permit. Food preparation may not be conducted on MFU while vehicle is in motion.
- (4) *Vehicle inspections.* All mobile food unit vendors must pass a vehicle inspection from the fire marshal's office as part of the City's permit process. All vendors must obey and be in compliance with the fire code and all other city codes.
- (5) *Administrative rules.* The city manager or designee shall promulgate rules and regulations to administer the provisions of this article. Such rules and regulations shall not conflict with any applicable provisions of this Code. All rules and regulations so promulgated shall be kept on file for public inspection at the office of the city secretary. A copy of the rules and regulations shall be provided to any person upon payment of the fees prescribed by law.
- (6) *Violation.* Anyone who intentionally, willfully, recklessly, or with criminal negligence violates this article shall, upon conviction, be guilty of a misdemeanor and shall be assessed fines or other punishment as provided by this Code.

(7) Revocation of health permit. In addition to the imposition of a criminal penalty, the failure to comply with any of the provisions of this article, or any of the promulgated rules or regulations established thereunder, shall be grounds for the revocation or suspension of the permit, or the refusal to issue or renew any permit required under this Code. If requested by the permittee in writing within seven business days of notice of revocation, the city manager or designee shall hear the cause for revocation/suspension/non-renewal and determine whether the grounds for such action are justified. The city manager's (or designee's) decision shall be final. The revocation or suspension of any permit shall not prohibit the imposition of a criminal penalty, and the imposition of a criminal penalty shall not prevent the revocation or suspension of a license under this article.”

Section 3. Chapter 35 of the Code of Ordinances of the City of Manvel is hereby amended by amending Article VII - PEDDLERS, CANVASSERS, AND SOLICITORS to read and provide as follows:

“Chapter 35 - LICENSES AND SPECIAL BUSINESS REGULATIONS

....

ARTICLE VII. - PEDDLERS, CANVASSERS, AND SOLICITORS

...

Sec. 35-171. - Exemptions from this article.

(a) A peddler, solicitor, canvasser or itinerant vendor conducting activities on the property of another by the express, prior invitation of the owner thereof is exempt from the provisions of this article.

(b) A vendor selling or exhibiting for sale commodities, goods, merchandise or services to persons engaged in the business of buying, selling and dealing in the same within the city is exempt from the provisions of this article.

(c) Mobile and temporary food vendors subject to Article X.

...

Section 5. 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 6. 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 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 7. 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 _____, 2022.

PASSED, APPROVED, AND ADOPTED on second and final reading this _____ day of _____, 20____.

Debra Davison, Mayor

Attest:

Tammy Bell, City Secretary

Approved as to Form:

Robert Gervais, City Attorney

ARTICLE X. MOBILE AND TEMPORARY FOOD VENDORS

Sec. 35-310. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Food hand cart means a food or drink vending station operating from a non-mechanical, movable cart that is pushed or pulled from one location to the next by hand (e.g. hot dog cart).

Mobile Food Unit (stationary) means a food or drink vending station operating from a mechanical vehicle or pulled trailer at a fixed location (e.g. taco truck).

Mobile Food Unit (mobile) means a food or drink vending station operating from a mechanical vehicle or pulled trailer that drives continuously, intermittently stopping for sales (e.g. ice cream truck).

Mobile food vendor means any person or entity engaged in selling or serving food or drink from a vehicle, booth or cart, including, but not limited to, operating any of the following:

- (1) Sidewalk stand; or
- (2) Food hand cart; or
- (3) Food truck (stationary); or
- (4) Food truck (mobile)

Sidewalk stand means a drink vending station operating from a non-mechanical booth or stand on or near the sidewalk or in the city right-of-way operated by a person under the age of 18, who only offers lemonade (e.g. lemonade stand).

Temporary food establishment means a food establishment that operates for a period of no more than ten (10) consecutive days in conjunction with a single event or celebration. This may include a stand or a booth.

Sec. 35-311. General prohibition.

Except where specifically authorized by this article, mobile food vendors of any type are expressly prohibited.

Sec. 35-312. Sidewalk stand.

Sidewalk stands are prohibited. There shall be an exception for temporary lemonade sidewalk stands operated by juveniles, which may be operated without a permit for a single period of up to eight hours, limited to one period within one calendar month.

Sec. 35-313. Food hand cart.

Food hand carts are prohibited. There shall be an exception for temporary operation for the following:

- (1) City events;
- (2) City approved or sponsored events; and

-
- (3) Private events (where admission is not open to the general public) on private property.

Sec. 35-314. Mobile Food Unit (stationary).

Food trucks (stationary) are prohibited. There shall be an exception for temporary operation for the following:

- (1) City events;
- (2) City approved or sponsored events; and
- (3) Private events (where admission is not open to the general public) on private property.

The following requirements shall apply to a mobile food units that are specifically permitted under this article:

- (1) MFUs must be equipped with the following
 - a. Portable fire extinguishers selected and installed in accordance with NFPA 10 with a minimum 2A:10BC rating. An approved Class K fire extinguisher must be provided for protection of grease cooking fires. All fire extinguishers must have a current inspection/service tag from a licensed fire extinguishing company.
 - b. A Type 1 hood installed where cooking appliances produce grease or smoke as a result of the cooking process.
 - c. Beginning on October 1, 2019, an automatic fire extinguishing system installed to protect cooking equipment.
- (2) Inspection of mobile food units. At the time of the inspection, the mobile food unit shall be completely operable and in full working order.
- (3) Miscellaneous offenses. In addition to the regulations contained above, the following actions are prohibited by mobile food unit operators:
 - a. Operating without a valid servicing record or commissary receipt which must be kept within the mobile food unit at all times;
 - b. Selling or offering for sale non-food items from the mobile food unit;
 - c. Storing or preparing food outside of the mobile food unit (except in a licensed central preparation facility);
 - d. Displaying, selling, or serving food outside of the mobile food unit;
 - e. Altering the mobile food unit in such a manner that would prevent or otherwise reduce ready mobility;
 - f. Blocking public right-of-way, a dedicated fire lane, or a public sidewalk;
 - g. Creating/operating a drive-thru in conjunction with the mobile food unit;
 - h. Allowing items such as brooms, hoses, equipment, containers or boxes to be located adjacent to or beneath the mobile food unit;
 - i. Providing or allowing signs or banners not attached to and solely supported by the mobile food unit to be set up at the serving area;
 - j. Allowing trash or debris at the site of the mobile food unit during operation, and leaving the site with trash or debris following operation;

-
- k. Allowing any audio speakers or amplification devices to be heard outside of the mobile food unit; or
 - l. Allowing outside furniture such as tables or chairs, to be set up adjacent to the mobile food unit.

Sec. 35-315. Mobile Food Unit (mobile).

Food trucks (mobile) are prohibited.

- (1) There shall be an exception for temporary operation for the following:
 - a. Pre-packaged non-TCS food vendors; and
 - b. Ice cream trucks
- (2) Food trucks (mobile) shall not stand for more than fifteen (15) minutes at any one location and may not prepare or cook food or drink items on the vehicle (pre-packaged only).
- (3) Food trucks with music or a public address system shall not exceed 65 decibels.
- (4) Food trucks may only operate from dawn until dusk, except for events with extended hours as may be expressly authorized by the city manager or designee.
- (5) Food trucks may not vend from the second lane of traffic, and may not double park or impede traffic.

(Ord. No. 2018-O-52, § 2, 1-22-2019)

Sec. 35-316. Temporary food establishment

Temporary food establishments are prohibited. There shall be an exception for the following:

- (1) City events;
- (2) City approved or sponsored events; and
- (3) Private events (where admission is not open to the general public) on private property

The following requirements shall apply to a temporary food establishment vendor that are specifically permitted under this article:

- (1) Every temporary food establishment vendor must have a current valid health permit. Permits are nontransferable. Multiple vendors may not operate under one health permit.
- (2) Except where only prepackage food is offered, every temporary food establishment must have a handwashing station with warm water, soap, drying device, and a waste water retention basin in used before food preparation begins.
- (3) Except where only prepackaged food is offered, every temporary food establishment must have a three (3) compartment warewashing station, labeled (wash, rinse, sanitize), with basins large enough to accommodate the largest utensil.
- (4) Every temporary food establishment utilizing electricity and/or any type of fire element must have appropriate fire extinguisher. Vendors are not allowed to share.

Sec. 35-317. Basic requirements.

The following requirements shall apply to the mobile food unit vendors and temporary food establishment vendors that are specifically permitted under this article:

- (1) Permitted mobile food unit vendors shall operate only on a temporary basis. Temporary shall mean for eight (8) hours or as long as the city event or city-approved event is ongoing.
- (2) There shall be no water, wastewater or electric hookups to the adjacent property.
- (3) There shall be no overnight parking or operation.
- (4) Vehicles and booths must be marked with the vendor's name.
 - (a) No detachable signage shall be permitted for Mobile Food Units, except for one removable sandwich-board sign displaying product and/or pricing information.
- (5) All stationary mobile food unit vendors and temporary food establishment vendors must set out a trash can for patrons while present and must remove all trash from the premises upon departure. Vendor must not allow trash to spill over and must change out trash bags when trash can is full.
- (6) Vendors may not set up within 300 yards of a restaurant, except with express written consent of the restaurant owner. Vendors must have at least ten (10) feet clearance from any building, structure, vehicle, and any combustible materials. Vendors must not block fire lanes or fire access roads.
- (7) Only employees shall be allowed in food preparation areas. Nonessential persons shall not be within any food service, food preparations, or warewashing areas, including by not limited to children under the age of 18.
- (8) All food preparation, processing, and service shall be located in/on an approved surface (concrete, asphalt).
- (9) All vendors must meet minimum food safety standards, including
 - a. A supervisory person, who has a current valid food manager certificate, must be onsite at all times.
 - b. All food ingredients must be from an approved source, in sound condition, and must be properly stored 6 inches off the ground.
 - c. A small diameter probe metal thermometer must be provided and all food must be stored at property temperatures.
 - i. Cold Food Holding shall not exceed 41 degrees Fahrenheit
 - ii. Hot Food Holding shall not be less than 135 degrees Fahrenheit
 - d. All employees must wear hand protection and hair restraints when in food preparation/serving areas.
 - e. Only single use articles may be provided for use by the consumer.
 - f. All vendors in service for longer than two (2) hours must have access to a toilet facility.
- (10) The city manager is authorized to sponsor and approve events on behalf of the city. In considering approval or sponsorship for the event, the city manager shall consider the following:
 - a. The nature of the event, which must be open to the general public;
 - b. Whether the organizers are in compliance with all city, county and state laws and regulations;

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- c. Whether the organizers have the means, personnel, volunteers, and resources to have a successful event;
 - d. Past history of events by the requesting organization, or similar events by other organizations, and whether there were any health, safety, or sanitation issues; and
 - e. Such other characteristics of the event, including time of year, that may place a burden on city or local law enforcement or first responders.

(Ord. No. 2018-O-52, § 2, 1-22-2019)

Sec. 35-318. Permits and health requirements.

The following requirements shall apply to the mobile food vendors that are specifically allowed under this article:

(1) *Health Permit.*

- a. All mobile food units, mobile and stationary, must obtain a permit from the city. Each permit will be issued unit-by-unit only after an inspection reveals satisfactory compliance with state law and this article, as applicable. Mobile food unit permits are non-transferable. A change of ownership of a MFU, including a change of legal form of the entity, shall require submission of a new application for a mobile food unit health permit and inspections. A mobile food unit health permit shall become void upon the closing of the sale of the MFU for which a permit was issued. Such permits shall remain the property of the city. Permit fees shall be as prescribed by the city council.
- b. All temporary food establishment vendors, must obtain a permit from the city. Each permit will be issued vendor-by-vendor and may serve only after an inspection reveals satisfactory compliance with state law and this article, as applicable. Such permits shall remain the property of the city. Permit fees shall be as prescribed by the city council.
- c. No person shall operate or cause to be operated any mobile food unit (mobile or stationary) or temporary food establishment which does not possess a valid health permit issued by the city. Any person, firm, or establishment who is found to have operated or caused operation without a valid health permit shall be deemed guilty of a misdemeanor and shall, upon conviction by a court of competent jurisdiction, be assessed fines or other punishment as provided by this Code.
- c. Such permit shall be posted in a conspicuous place where it can be viewed by patrons and shall not be removed or defaced. A health permit issued to a Mobile Food Unit shall be affixed to the truck by the code enforcement officer/health officer. A permit shall set forth the business name, license plate number, mobile food unit license number, and expiration date for said license.
- d. Every food truck must be readily identifiable by its business name and phone number that are printed, permanently affixed, and prominently displayed on the back of the unit and on the side of the unit from which food is served, in letters not less than three (3) inches in height.
- e. Sidewalk stands, where allowed by this article, are exempt from permit requirements.

(2) *Health regulations.* All vendors must obey and be in compliance with all state, county and city health laws and regulations. Compliance with these laws shall be a part of the city permit process.

(3) *Food preparation.* No food may be stored or prepared at any location except on the MFU or at the temporary food establishment, in a licensed commissary, or permitted central processing facility as listed on the application submitted for the health permit. Food preparation may not be conducted on MFU while vehicle is in motion.

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- (4) *Vehicle inspections.* All mobile food unit vendors must pass a vehicle inspection from the fire marshal's office as part of the City's permit process. All vendors must obey and be in compliance with the fire code and all other city codes.
 - (5) *Administrative rules.* The city manager or designee shall promulgate rules and regulations to administer the provisions of this article. Such rules and regulations shall not conflict with any applicable provisions of this Code. All rules and regulations so promulgated shall be kept on file for public inspection at the office of the city secretary. A copy of the rules and regulations shall be provided to any person upon payment of the fees prescribed by law.
 - (6) *Violation.* Anyone who intentionally, willfully, recklessly, or with criminal negligence violates this article shall, upon conviction, be guilty of a misdemeanor and shall be assessed fines or other punishment as provided by this Code.
 - (7) *Revocation of health permit.* In addition to the imposition of a criminal penalty, the failure to comply with any of the provisions of this article, or any of the promulgated rules or regulations established thereunder, shall be grounds for the revocation or suspension of the permit, or the refusal to issue or renew any permit required under this Code. If requested by the permittee in writing within seven business days of notice of revocation, the city manager or designee shall hear the cause for revocation/suspension/non-renewal and determine whether the grounds for such action are justified. The city manager's (or designee's) decision shall be final. The revocation or suspension of any permit shall not prohibit the imposition of a criminal penalty, and the imposition of a criminal penalty shall not prevent the revocation or suspension of a license under this article.

ARTICLE X. MOBILE AND TEMPORARY FOOD VENDORS

Sec. 35-310. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Food hand cart means a food or drink vending station operating from a non-mechanical, movable cart that is pushed or pulled from one location to the next by hand (e.g. hot dog cart).

Mobile ~~(truck)~~ Food Unit (stationary) means a food or drink vending station operating from a mechanical vehicle or pulled trailer at a fixed location (e.g. taco truck).

Mobile ~~(truck)~~ Food Unit (mobile) means a food or drink vending station operating from a mechanical vehicle or pulled trailer that drives continuously, intermittently stopping for sales (e.g. ice cream truck).

Mobile food vendor means any person or entity engaged in selling or serving food or drink from a vehicle, booth or cart, including, but not limited to, operating any of the following:

- (1) Sidewalk stand; or
- (2) Food hand cart; or
- (3) Food truck (stationary); or
- (4) Food truck (mobile)

Sidewalk stand means a ~~(food or)~~ drink vending station operating from a non-mechanical booth or stand on or near the sidewalk or in the city right-of-way **operated by a person under the age of 18, who only offers lemonade** (e.g. lemonade stand).

Temporary food establishment means a food establishment that operates for a period of no more than ten (10) consecutive days in conjunction with a single event or celebration. This may include a stand or a booth.

Commented [DB1]: Texas Admin Code term, TFER 2015

Commented [DB2]: State definition

Commented [DB3]: Clarification

Sec. 35-311. General prohibition.

Except where specifically authorized by this article, mobile food vendors of any type are expressly prohibited. (Ord. No. 2018-O-52, § 2, 1-22-2019)

Sec. 35-312. Sidewalk stand.

Sidewalk stands are prohibited. There shall be an exception for temporary lemonade ~~(soft drink)~~ sidewalk stands operated by juveniles, ~~(or a non-profit corporation)~~ which may be operated without a permit for a single period of up to eight hours, limited to one period within one calendar month.

(Ord. No. 2018-O-52, § 2, 1-22-2019)

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Sec. 35-313. Food hand cart.

Food hand carts are prohibited. There shall be an exception for temporary operation for the following:

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- (1) City events;
 - (2) City approved or sponsored events; and
 - (3) Private events (where admission is not open to the general public) on private property.

(Ord. No. 2018-O-52, § 2, 1-22-2019)

Sec. 35-314. Mobile Food Unit (stationary).

Food trucks (stationary) are prohibited. There shall be an exception for temporary operation for the following:

- (1) City events;
- (2) City approved or sponsored events; and
- (3) Private events (where admission is not open to the general public) on private property.

The following requirements shall apply to a mobile food units that are specifically permitted under this article:

- (1) MFUs must be equipped with the following
 - a. Portable fire extinguishers selected and installed in accordance with NFPA 10 with a minimum 2A:10BC rating. An approved Class K fire extinguisher must be provided for protection of grease cooking fires. All fire extinguishers must have a current inspection/service tag from a licensed fire extinguishing company.
 - b. A Type 1 hood installed where cooking appliances produce grease or smoke as a result of the cooking process.
 - c. Beginning on October 1, 2019, an automatic fire extinguishing system installed to protect cooking equipment.
- (2) Inspection of mobile food units. At the time of the inspection, the mobile food unit shall be completely operable and in full working order.
- (3) Miscellaneous offenses. In addition to the regulations contained above, the following actions are prohibited by mobile food unit operators:
 - a. Operating without a valid servicing record or commissary receipt which must be kept within the mobile food unit at all times;
 - b. Selling or offering for sale non-food items from the mobile food unit;
 - c. Storing or preparing food outside of the mobile food unit (except in a licensed central preparation facility);
 - d. Displaying, selling, or serving food outside of the mobile food unit;
 - e. Altering the mobile food unit in such a manner that would prevent or otherwise reduce ready mobility;
 - f. Blocking public right-of-way, a dedicated fire lane, or a public sidewalk;
 - g. Creating/operating a drive-thru in conjunction with the mobile food unit;
 - h. Allowing items such as brooms, hoses, equipment, containers or boxes to be located adjacent to or beneath the mobile food unit;

Commented [DB5]: City of Missouri City

- i. Providing or allowing signs or banners not attached to and solely supported by the mobile food unit to be set up at the serving area;
- j. Allowing trash or debris at the site of the mobile food unit during operation, and leaving the site with trash or debris following operation;
- k. Allowing any audio speakers or amplification devices to be heard outside of the mobile food unit; or
- l. Allowing outside furniture such as tables or chairs, to be set up adjacent to the mobile food unit.

Commented [DB6]: Sugarland

(Ord. No. 2018-O-52, § 2, 1-22-2019)

Sec. 35-315. Mobile Food Unit (mobile).

Food trucks (mobile) are prohibited.

- (1) There shall be an exception for temporary operation for the following:
 - a. Pre-packaged non-TCS food vendors; and
 - b. Ice cream trucks
- (2) Food trucks (mobile) shall not stand for more than fifteen (15) minutes at any one location and may not prepare or cook food or drink items on the vehicle (pre-packaged only).
- (3) Food trucks with music or a public address system shall not exceed 65 decibels.
- (4) Food trucks may only operate from dawn until dusk, except for events with extended hours as may be expressly authorized by the city manager or designee.
- (5) Food trucks may not vend from the second lane of traffic, and may not double park or impede traffic.

(Ord. No. 2018-O-52, § 2, 1-22-2019)

Sec. 35-316. Temporary food establishment

Commented [DB7]: Clarification

Temporary food establishments are prohibited. There shall be an exception for the following:

- (1) City events;
- (2) City approved or sponsored events; and
- (3) Private events (where admission is not open to the general public) on private property

The following requirements shall apply to a temporary food establishment vendor that are specifically permitted under this article:

- (1) Every temporary food establishment vendor must have a current valid health permit. Permits are nontransferable. Multiple vendors may not operate under one health permit.
- (2) Except where only prepackage food is offered, every temporary food establishment must have a handwashing station with warm water, soap, drying device, and a waste water retention basin in used before food preparation begins.

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(Supp. No. 28)

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- (3) Except where only prepackaged food is offered, every temporary food establishment must have a three (3) compartment warewashing station, labeled (wash, rinse, sanitize), with basins large enough to accommodate the largest utensil.
 - (4) Every temporary food establishment utilizing electricity and/or any type of fire element must have appropriate fire extinguisher. Vendors are not allowed to share.

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Sec. 35-317. Basic requirements.

The following requirements shall apply to the mobile food unit vendors and temporary food establishment vendors that are specifically permitted under this article:

- (1) Permitted mobile food unit vendors shall operate only on a temporary basis. Temporary shall mean for eight (8) hours or as long as the city event or city-approved event is ongoing.
- (2) There shall be no water, wastewater or electric hookups to the adjacent property.
- (3) There shall be no overnight parking or operation.
- (4) Vehicles and booths must be marked with the vendor's name.
- (5) ~~(5)~~(a) No detachable signage shall be permitted for Mobile Food Units, except for one removable sandwich-board sign displaying product and/or pricing information.
- (5) All stationary mobile food ~~(truck)~~ unit vendors and temporary food establishment vendors must set out a trash can for patrons while present and must remove all trash from the premises upon departure. Vendor must not allow trash to spill over and must change out trash bags when trash can is full.
- (6) Vendors may not set up within 300 yards of a restaurant, except with express written consent of the restaurant owner. Vendors must have at least ten (10) feet clearance from any building, structure, vehicle, and any combustible materials. Vendors must not block fire lanes or fire access roads.
- (7) Only employees shall be allowed in food preparation areas. Nonessential persons shall not be within any food service, food preparations, or warewashing areas, including by not limited to children under the age of 18.
- (8) All food preparation, processing, and service shall be located in/on an approved surface (concrete, asphalt).
- (9) All vendors must meet minimum food safety standards, including
 - a. A supervisory person, who has a current valid food manager certificate, must be onsite at all times.
 - b. All food ingredients must be from an approved source, in sound condition, and must be properly stored 6 inches off the ground.
 - c. A small diameter probe metal thermometer must be provided and all food must be stored at property temperatures.
 - i. Cold Food Holding shall not exceed 41 degrees Fahrenheit
 - ii. Hot Food Holding shall not be less than 135 degrees Fahrenheit
 - d. All employees must wear hand protection and hair restraints when in food preparation/serving areas.
 - e. Only single use articles may be provided for use by the consumer.

Commented [DB10]: Sugarland

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f. ~~All vendors in service for longer than two (2) hours must have access to a toilet facility.~~

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- (10) The city manager is authorized to sponsor and approve events on behalf of the city. In considering approval or sponsorship for the event, the city manager shall consider the following:
- The nature of the event, which must be open to the general public;
 - Whether the organizers are in compliance with all city, county and state laws and regulations;
 - Whether the organizers have the means, personnel, volunteers, and resources to have a successful event;
 - Past history of events by the requesting organization, or similar events by other organizations, and whether there were any health, safety, or sanitation issues; and
 - Such other characteristics of the event, including time of year, that may place a burden on city or local law enforcement or first responders.

(Ord. No. 2018-O-52, § 2, 1-22-2019)

Sec. 35-318. Permits and health requirements.

The following requirements shall apply to the mobile food vendors that are specifically allowed under this article:

(1) **Health Permit.**

- All mobile food units, mobile and stationary, must obtain a permit from the city ~~(fire marshal's office)~~. Each permit will be issued unit-by-unit only after an inspection reveals satisfactory compliance with state law and this article, as applicable. ~~Mobile food unit permits are non-transferable. A charge of ownership of a MFU, including a change of legal form of the entity, shall require submission of a new application for a mobile food unit health permit and inspections. A mobile food unit health permit shall become void upon the closing of the sale of the MFU for which a permit was issued.~~ Such permits shall remain the property of the city. Permit fees shall be as prescribed by the city council.
- ~~All temporary food establishment vendors, must obtain a permit from the city. Each permit will be issued vendor-by-vendor and may serve only after an inspection reveals satisfactory compliance with state law and this article, as applicable. Such permits shall remain the property of the city. Permit fees shall be as prescribed by the city council.~~
- No person shall operate or cause to be operated any mobile food unit (mobile or stationary) ~~or temporary food establishment~~ which does not possess a valid health permit issued by the city ~~(fire marshal's office)~~. Any person, firm, or establishment who is found to have operated or caused operation ~~[a food truck (mobile or stationary)]~~ without a valid health permit shall be deemed guilty of a misdemeanor and shall, upon conviction by a court of competent jurisdiction, be assessed fines or other punishment as provided by this Code.
- Such ~~permit shall be posted in a conspicuous place where it can be viewed by patrons and shall not be removed or defaced. A health permit issued to a Mobile Food Unit shall be affixed [by the fire marshal or designee on the food truck in a conspicuous place where it can be viewed by patrons]~~ to the truck by the ~~code enforcement officer/health officer~~. A permit shall set forth the business name, license plate number, mobile food unit license number, and expiration date for said license.

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- d. Every food truck must be readily identifiable by its business name and phone number that are printed, permanently affixed, and prominently displayed on the back of the unit and on the side of the unit from which food is served, in letters not less than three (3) inches in height.
- e. Sidewalk stands, where allowed by this article, are exempt from permit requirements.
- ~~f. Food hand cart vendors, where allowed by this article, are exempt from permit requirements.~~
- (2) *Health regulations.* All vendors must obey and be in compliance with all state, county and city health laws and regulations. Compliance with these laws shall be a part of the city permit process.
- (3) ~~Food handling regulations. All vendors must obey and be in compliance with all state, county and city food handling regulations.~~ *Food preparation. No food may be stored or prepared at any location except on the MFU or at the temporary food establishment, in a licensed commissary, or permitted central processing facility as listed on the application submitted for the health permit. Food preparation may not be conducted on MFU while vehicle is in motion.*
- (4) *Vehicle inspections.* All mobile food unit vendors must pass a vehicle inspection from the fire marshal's office as part of the City's permit process. All vendors must obey and be in compliance with the fire code and all other city codes.
- (5) *Administrative rules.* The city manager or designee shall promulgate rules and regulations to administer the provisions of this article. Such rules and regulations shall not conflict with any applicable provisions of this Code. All rules and regulations so promulgated shall be kept on file for public inspection at the office of the city secretary. A copy of the rules and regulations shall be provided to any person upon payment of the fees prescribed by law.
- (6) *Violation.* Anyone who intentionally, willfully, recklessly, or with criminal negligence violates this article shall, upon conviction, be guilty of a misdemeanor and shall be assessed fines or other punishment as provided by this Code.
- (7) *Revocation of health permit.* In addition to the imposition of a criminal penalty, the failure to comply with any of the provisions of this article, or any of the promulgated rules or regulations established thereunder, shall be grounds for the revocation or suspension of the permit, or the refusal to issue or renew any permit required under this Code. If requested by the permittee in writing within seven business days of notice of revocation, the city manager or designee shall hear the cause for revocation/suspension/non-renewal and determine whether the grounds for such action are justified. The city manager's (or designee's) decision shall be final. The revocation or suspension of any permit shall not prohibit the imposition of a criminal penalty, and the imposition of a criminal penalty shall not prevent the revocation or suspension of a license under this article.

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MANVEL CITY COUNCIL DATA SHEET

MEETING DATE: May 16, 2022

TOPIC: Consideration and possible action to approve Ordinance No. 2022-O-17, which updates and clearly defines health and food safety standards for all establishments that offer food to the public.

BACKGROUND: In order to ease comprehension and clarification, the health permit and food safety ordinance has been edited and updated to better serve the public. This includes solidifying the adopted health code, addition and/or editing of definitions to strengthen the code, editing the format to mirror other ordinances, streamlining permit renewals, clarifying previously unclarified health processes and permits, including processes for temporary food establishments and power failures, and offering additional opportunities for food establishments, including owner-initiated inspections.

RECOMMENDATION: The staff recommends approval of Ordinance No. 2022-O-17.

ATTACHMENTS: Ordinance No. 2022-O-17, Chapter 33, *Health Permit*, Final Draft, and Chapter 33, *Health Permit*, Redline Draft

FUNDING ISSUES

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

SUBMITTING STAFF MEMBER
Danielle Bryan

FINANCE DIRECTOR APPROVAL _____

CITY MANAGER APPROVAL _____

ORDINANCE NO. 2022-O-17

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MANVEL BY REPEALING THE CURRENT CHAPTER 33 “FOOD AND FOOD HANDLERS” AND ADOPTING A NEW CHAPTER 33 “FOOD AND FOOD HANDLERS” TO REGULATE FOOD ESTABLISHMENTS; REPEALING PROVISIONS IN CONFLICT THEREWITH; 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, has deemed it in the best interest of the health, safety, and welfare of the citizens of the City to regulate food and food handlers; and

WHEREAS, this regulation is integral to maintaining the public health and to support the vision of citizens and City Council of the City of Manvel; and

WHEREAS, the City Council finds that the repeal of the current chapter 33 and the adoption of this new chapter 33 is in the best interest of the citizens of Manvel to regulate food establishments; 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. The Code of Ordinances of the City of Manvel is hereby amended by repealing the current Chapter 33 “Food and Food Handlers.”

Section 3. The Code of Ordinances of the City of Manvel is hereby amended by adopting a new Chapter 33 “Food and Food Handlers,” to read and provide as follows:

“Chapter 33 - FOOD AND FOOD HANDLERS”

ARTICLE I. - IN GENERAL

The purpose of the Chapter is to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly resented. This Chapter establishes set standards for management and person, food operations, and equipment and facilities; and provides for food establishment plan review, permit issuance, inspection, and permit revision.

Sec. 33-1. Definitions

Employee shall mean any person who handles food or drink during preparation or serving, or who comes in contact with any eating or cooking utensils, or who is stationed in a room in which food or drink is prepared or served, including but not limited to, the permit holder, person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in the food establishment.

Food means (1) articles used for food or drink for human consumption; (2) a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, (3) chewing gum, and (4) components of any such article.

Hair Restraints shall mean a hat, hair covering or net, beard restraint, or clothing that covers body hair and is designed and worn to effectively keep hair from contacted exposed food, equipment, utensils, linens, or single-use and single-service articles. This requirement does not apply to food employees, such as counter staff, who only serve beverages and wrapped or packaged foods, hostesses, and wait staff, if they present a minimal risk of contaminating exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles, whose hair is secured.

Health officer shall mean any person in the code enforcement/health office, or other person designated by the city manager, assigned to inspect food establishments, educate food establishment employees and food employees on local and state statutory requirements for health and safety in food service, and enforce all local and state health and safety laws as permitted by law.

Imminent health hazard shall mean a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operations to prevent injury based on the number of potential injuries and the nature, severity, and duration of the anticipated injury; including but not limited to, a complete rack of refrigeration, sewage back-up into the establishment, or an inspection score less than fifty (50).

Misbranded-food shall mean be deemed misbranded if:

- (i) Its labeling is false or misleading in any particular;
- (ii) It is offered for sale under the name of another food;
- (iii) It is an imitation of another food, unless its label bears the word "imitation" in type of uniform size and prominence and immediately thereafter the name of the food imitated; and except in cases of mixture and compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not an imitation of or offered for sale under the distinctive name of another article if the name is accompanied on the same label or brand with a statement of the place where said

article has been manufactured or produced. No one administering this chapter may constitute oleomargarine as an imitation of butter;

(iv) The container is so made, formed, or filled as to be misleading;

(v) It is in package form without a label containing: (a) the common name of the food, (b) the name and place of business of the manufacturer, packer, or distributor; (c) an accurate statement of the quantity of the content in terms of weight, measure, or numerical count; and (d) the name of the food source for each major food allergen contained in the food unless the food source is already part of the common name;

(vi) If any word, statement, or other information required by or under authority of this chapter of state law to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(vii) If it purports to be or is represented as food for which a definition and standard of identity has been prescribed by state regulations, unless, (a) it conforms to such definition and standard, and (b) its label bears the name of the food specified in the definition and standard, and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such foods;

(viii) If it purports to be or is represented as: (a) A food for which a standard of quality has been prescribed by state regulations, and its quality falls below such standard unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard; or (b) A food for which standard or standards of fill of container have been prescribed by state regulations, and it falls below the standard of fill container applicable thereto, unless it labels bears, in such manner and form as such regulations specify, a statement that it falls below such standard;

(ix) If it is not subject to the provisions above, unless it bears labeling clearly giving: (a) the common or usual name in the food, if any there be; and (b) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such may be designated as spices flavorings, and colorings, without naming each; provided that, to the extent that compliance with the requirements of clause (b) of this subsection is impractical or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the state commissioner of health; provided further that the requirements above shall not apply to any bottled carbonated drinks or soft drinks and, provided further, that clause (b) of this subsection shall not apply to any bottled carbonated drinks or soft drinks or the dispensing of carbonated soft drinks in single service cups. Nothing in this chapter shall be construed as requiring proprietors or manufacturers of proprietary foods which contain no unwholesome added ingredients to

disclose their trade formulas except insofar as the provisions of the law require to secure freedom of adulteration or misbranding;

(x) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral and other dietary properties as the state commissioner of health determines to be, and by regulations prescribed, as necessary in order to inform purchasers as to its value for such uses; or

(xii) If it bears or contains any artificial flavorings, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided that, to the extent that compliance with the requirements of this subsection is impracticable, exemptions shall be established by regulations promulgated by the state commissioner of health. The provisions of this subsection and subsections (vii) and (ix) with respect to artificial coloring are not to apply in the case of butter, cheese, and ice cream.

Nonprofit organization/establishment shall mean an organization whose operations is not conducted or maintained for the purpose of making a profit, and from which its shareholders or trustees do not benefit financially. Nonprofit status must be verified by submission of supporting documentation, such as an IRS form 501c.

Private water system shall mean a drinking water system that is not connected to a public water system and is not regulated by the Texas Commission on Environmental Quality, including private wells. Such systems have additional requirements, including, but not limited to, water sampling and testing every six months. Upon request, proof of testing may be required and documents submitted to the regulatory authority.

Regulatory authority shall mean the City of Manvel, Texas.

Temporary food establishment shall mean a food establishment that operates for a period of no more than ten (10) consecutive days in conjunction with a single event or celebration. This may include a stand or a booth.

Restaurant shall mean restaurant, coffee shop, cafeteria, short-order café, luncheonette, tavern, sandwich shop, sandwich stand, soda fountain, hospitals, institutions, private, public and parochial school lunchrooms, private and semi-private clubs, stadium concession stand, and all other food or beverage establishments, as well as other kitchens or other places in which food or drink is prepared for serving or for sale elsewhere.

State law definitions shall mean any term used in this chapter and not specifically defined herein shall have the meaning ascribed to it in the Texas Food, Drug and Cosmetic Act, V.T.C.A., Health and Safety Code, Ch. 431.

Time/Temperature Controlled for Safety (TCS) Food shall mean a food that requires time/temperature controlled for safety to limit pathogenic microorganism growth or toxin formation.

Utensils shall mean and include any kitchenware, tableware, glassware, cutlery, vessels, containers, or other equipment with which food or drink comes in contact during storage, preparation, serving, eating, or drinking.

Sec 33-2. State regulations adopted.

- (a) The city adopts by reference the *Texas Food Establishment Rules 2015* The *Texas Food Establishment Rules 2015* shall be considered incorporated herein by reference for all purposes.
- (b) From and after enactment of this chapter, the *Texas Food Establishment Rules 2015* shall govern the regulation of food and food establishments in the city in addition to any other requirements set forth in this chapter and other applicable laws and regulations. For purposes of this chapter, the words, terms and phrases set forth in the *Texas Food Establishment Rules 2015* as definitions shall have the meanings and interpretations set forth therein.
- (c) Except as where may be specifically stated herein, this chapter shall be enforced by the city code enforcement officer/health officer, or such other personnel designated by the city manager.
- (d) A copy of the *Texas Food Establishment Rules 2015* shall be on file in the office of the city secretary.

Sec. 33-3. Local amendments and definitions.

The *Texas Food Establishment Rules 2015* adopted in section 33-1 are hereby amended as follows:

(1) The following provisions are added:

- a. 228.2(153) Code enforcement/health officer - A city "code enforcement officer" or "health officer" shall mean any person in the health office/code enforcement office, or other person designated by the city manager, assigned to inspect food establishments, educate food establishment employees and food employees on local and state statutory requirements for health and safety in food service, and enforce all local and state health and safety laws as permitted by law.
- b. 228.2(154) Reconstituted - Food created or prepared by recombining dehydrated food products with water or other liquids.
- c. 228.2(155) Sanitation - Effective bactericidal treatment process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on tableware, utensils, ~~and~~ equipment, and alike.
- d. 228.186(o)(2)(F) - Service Animals - In areas that are not used for food preparation or storage, a food establishment may, at the owner or manager's discretion, or where required by law, allow patrons to bring service animals on the premises. Notices stating where a patron is allowed to bring service animals on the premises shall be posted in all areas where the service animals are to be allowed by the food establishment.

(2) The following provisions are adopted in place of the identically numbered provisions in the *Texas Food Establishment Rules 2015*:

- a. 228.2(57) Food establishment - Food establishment means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, whether for charge or not, as follows:
1. A restaurant, retail food store, satellite or catered feeding location, catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people, market, vending machine location, self-service food market, conveyance used to transport people, institution, or food bank. This includes any establishment where prepackaged Time/Temperature Control for Safety (TCS) food and food products are offered to the ultimate consumer and intended for off premise consumption;
 2. An establishment that relinquishes possession of food to a consumer directly, or indirectly through a delivery service, such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers; and
 3. Includes an element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location, unless the vending or feeding location is permitted by the regulatory authority.
 4. An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises regardless if there is a charge for the food.
 5. Food establishment does not include
 - a. An establishment that offers only prepackaged foods that are not TCS foods;
 - b. A produce stand that only offers whole, uncut fresh fruits and vegetables;
 - c. A food processing plant;
 - d. A cottage food production operation; or
 - e. A private home that receives catered or home-delivered food.
- b. 228.2(59) Food Protection Manager Certification- A document obtained by a person in charge who demonstrates knowledge by being a food protection manager that is certified by a food protection manager certification program that is evaluated and listed by a Conference for Food Protection-recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of food Protection Manager Certification Programs. Food establishments having multiple preparation areas or at such distance that a single individual may not effectively supervise activities in each, must have a person in charge who has a valid food service manager's certification located in each area.
- c. 228.2(85) Mobile Food Unit (MFU) - A vehicle mounted, self or otherwise propelled, self-contained food service operation, designed to be readily movable (including, but

- not limited to, trailers and food hand cart) and used to store, prepare, display, serve, or sell food. Mobile units must completely retain their mobility at all times. A Mobile Food Unit does not mean a stand or a booth. A Mobile Food Unit operating in the City must have onsite at least one food employee who possesses a food manager certification.
- d. 228.2(143) Temporary food establishment - A food establishment that operates a stand or booth for a period of no more than ten (10) consecutive days in conjunction with a single event or celebration. A temporary food establishment operating in the City must have onsite at least one food employee who possesses a food manager certification.
 - e. 228.42(a)(2) is amended by changing “closed beverage container” to “screw top lid” and adding a requirement that management designate a specific location to store all approved employee beverage containers.

Sec. 33-3. Application of chapter.

- (a) This chapter shall apply to all areas within the corporate limits of the city.
- (b) Persons or organizations whose food services are regulated and regularly inspected by another federal or state governmental entity are required to comply with this chapter.
- (c) If there is a conflict between a provision of this chapter and another provision of the City Code or state law, the more stringent provision shall apply.

Sec. 33-4. Enforcement.

Except as where may be specifically stated herein, this chapter shall be enforced by the City code enforcement officer/health officer, or such other personnel designated by the city manager.

Sec. 33-5. Penalty.

- (a) All provisions of this chapter shall be applicable to all food establishments, unless otherwise required by law.
- (b) No food establishment shall be operated within the city unless it conforms with the provisions of this chapter.
- (c) Any person or establishment deemed in violation of this chapter may be subject to permit suspension or revocation.
- (d) Any person who intentionally, knowingly, willfully, or with criminal negligence violates any provision of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not exceeding \$2,000.00. Each day of violation of this chapter shall constitute a separate offense. Prosecution in municipal court shall be in addition to other remedies provided in this chapter, by law, or in equity.
- (e) A license holder shall ensure that the food establishment is in full compliance with this chapter at all times.

- (f) The person in charge shall ensure that the food establishment is operated in full compliance with this chapter and that all food is stored, prepared, displayed and served in accordance with the provisions of this chapter.
- (g) All mobile food unit and temporary food establishment vendors must comply with the requirements of the City Code, chapter 35, article X, as amended from time to time.

Sec. 33-6. Injunction.

- (a) If it appears that a person has violated, is violating, or threatens to violate this chapter, the city may institute a civil suit in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation.
- (b) The city may petition a district court for a temporary restraining order to immediately halt a violation or other action creating an emergency condition if it appears that:
 - (1) A person is violating or threatening to violate this chapter; and
 - (2) The violation or threatened violation creates an immediate threat to the health and safety of the public.

Secs. 33-7—33-9. Reserved.

ARTICLE II. HEALTH PERMIT

Sec. 33-10. Required.

- (a) Health Permit. No person shall operate a food establishment without possessing a valid health permit issued by the City through the permits department. Such permit be known as a "health permit", a "temporary food establishment health permit", or a "mobile food unit health permit", hereinafter referred to collectively as "permit", "permits", or "health permit". Only a person who complies with the requirements of this chapter shall be entitled to receive or retain such a permit. All health permits issued by the City remain the property of the City.
- (b) The non-refundable annual fee for a food establishment health permit, other than that issued to a nonprofit organization, daycare, or institution, will be based on the square footage of the establishment.
- (c) Permits are not transferable from one person or place to another person or place. A valid permit shall be posted in view of the public in every food establishment, temporary food establishment, and mobile food unit.
- (d) Each and every food establishment, whether under one roof or not, operating separate POS systems, or subletting a location/area from lessee, shall be considered a separate establishment, and a permit must be obtained for each establishment. Each such establishment is subject to the requirements in this chapter.
- (e) Application. All applications must be completely and accurately filled out, and all requirement documentation must be submitted. Any fraudulent information may cause revocation of any and all issued health permits.

- (1) Any person desiring to obtain a health permit shall make written application for such permit on forms provided at the city's permits department or on the city's website. Such application shall include the applicant's full name and mailing address; the location of proposed food establishment; and the signature of the applicant or applicants.
- (2) Any person desiring to obtain a temporary food establishment health permit shall make written application for such permit, at least three (3) days before prior to the beginning of the temporary food establishment operation, on forms provided at the city's permits department or on the city's website. In addition to the information listed in subsection (1) above, such application shall include

 - a. The inclusive dates of the proposed operations;
 - b. The name, address, and telephone number of the owner or owners of the property where the temporary food service establishment is to be located; and
 - c. A statement signed by the owner(s) of the property or his/her authorized agent, stating that arrangements have been made for the proper disposal of all rubbish, trash, garbage, and for maintaining the property free from litter and nuisances during the total period of operation up to and including any cleanup time required to remove all rubbish, trash, garbage, and litter resulting from the food service. A description of such arrangements must be included.
- (4) Any person desiring to obtain a mobile food unit health permit shall make written application for such permit on forms provided at the city's permits department or on the city's website. Should an individual or entity own more than one mobile food unit, a health permit must be obtained to each individual mobile food unit. In addition to the information listed in subsection (1) above, such application shall include

 - a. The physical address where the mobile food unit is stationed when not in use;
 - b. The business name and address of the central preparation facility or other fixed food service establishment where the potentially hazardous food supplies are obtained;
 - c. The address of the servicing area; and
 - d. A description of the mobile food unit which includes the manufacturer's make, model, serial or VIN number, and the vehicle's state registration number.
- (5) A permit holder must notify the City of any changes to the information submitted in an application for the permit, including but not limited to, change of address or telephone number. The notification must be given to the City in writing within ten (10) days of the change.
- (f) The permit department shall issue the appropriate permit to the applicant if inspection reveals that the proposed food establishment complies with the requirements of this chapter. All temporary food establishments and mobile food unit vendors must comply with the requirements of the City Code, Chapter 35, article X.

Sec. 33-11. Duration.

Permits shall be issued annually and shall extend from the date of issuance or renewal, until June 30th each year. All Health Permits issued by the city expire on June 30th each year. Annual renewal applications must be submitted at least fourteen (14) days prior to the expiration date of the permit.

Temporary food establishment health permits shall extend from the first date of service until ten (10) days after the first date of service. All temporary food vendor permit applications must be submitted at least three (3) days before the first event day. Applications received after less than three (3) days before the first event day may be imposed with additional fees.

Mobile food unit health permits shall be issued annually and shall extend from the date of issuance or renewal, until the first day of the issuance month the following year. Annual renewal applications must be submitted at least fourteen (14) days prior to the expiration date of the permit.

Sec. 33-12. Fees.

- (a) Before any permit shall be issued under this chapter, the applicant shall pay the applicable fees set forth in the latest fee schedule resolution adopted by the city. All food establishments shall be obligated to pay an annual permit fee as specified in the latest fee schedule resolution adopted by the city.
- (b) The re-inspection fee set forth in the latest fee schedule resolution adopted by the city shall apply in cases where re-inspection is deemed necessary by the City's code enforcement officer/health officer.
- (c) Health permit renewal applications received after the expiration date of issued permit fee shall include a late fee as set for in the latest fee schedule resolution adopted by the city.

Sec. 33-13. Refunds/proration.

Permit fees are not refundable and shall not be prorated.

Sec. 33-14. Suspension.

- (a) The City, without warning, may suspend any health permit to operate a food establishment, temporary food establishment, and/or mobile food unit, if the operation of the establishment does not comply with the requirements of this chapter, the permit holder does not comply with the requirements of this chapter, or if the operation of the establishment otherwise constitutes a substantial health hazard or immediate threat to the health and safety of the public. Suspension is effective upon written notice and issuance, and service operations shall immediately cease.
- (b) Whenever a permit is suspended, the city shall notify the permit holder or the person in charge of the food establishment in writing of the reason(s) for which the permit is suspended and inform them of the opportunity for a hearing before the city municipal court. If the permit holder requests a hearing, they shall file their written request for a hearing with the city secretary within ten (10) days following service of such notice of suspension. If a

request for hearing is filed, a hearing shall be scheduled within ten days of the City's receipt of such request. If no request for hearing is filed within the ten-day period, the suspension of the permit is sustained. The city's code enforcement officer/ health officer may end the suspension at any time if reasons for suspension no longer exist.

- (c) Whenever a food service license is suspended, it may be physically removed from the premises by the code enforcement officer/health officer and retained at the office of the code enforcement officer/health officer until the suspension has been lifted or modified.
- (d) Whenever a mobile food unit license is suspended, it shall be physically removed from the mobile food unit in violation by the code enforcement officer/health officer.
- (e) All hearings shall be held in the municipal court and presided over by a municipal court judge. All hearings shall be, as much as practicable, conducted pursuant to the Texas Rules of Civil Procedure.
- (f) If the permit holder fails to appear at the hearing at the time, place, and date specified, the city shall present sufficient evidence to establish a prima facie case showing violation of this chapter or conditions constituting a hazard to public health which formed the basis of the suspension of the license.
- (g) If the municipal court finds that the food establishment was, in fact, in violation of this chapter or that it constituted a hazard to public health, the court shall make written findings of fact and shall order the permit suspended until all violations of this chapter are corrected and any conditions constituting a hazard to public health are eliminated. A copy of the findings and order of the court shall be either given to the responsible party upon conclusion of the hearing, or sent by certified mail, return receipt requested, to the permit holder. If the municipal court finds that the public interest will be adequately protected by a warning or other penalty authorized under this chapter, it may reinstate the permit.
- (h) Whenever the reasons for a suspension no longer exist, the permit holder or the person in charge shall notify the permits department that the conditions under which the permit was suspended have been corrected and that an inspection is requested. Upon receipt of request and payment of any required re-inspection fee, such inspection shall be conducted as soon as possible and in no event, no later than three (3) regular working days after the receipt of the request for inspection.

Sec. 33-15. Revocation.

The city may revoke a permit for serious or repeated violation(s) of any of the requirements of this chapter or for interference with the health official/code enforcement officer in the performance of his/her duties. Prior to revocation, the city shall notify the permit holder or the person in charge of the food establishment in writing of the reason(s) for which the permit is subject to revocation, and that the permit shall be revoked at the end of the ten (10) calendar days following service of such notice unless a written request for a hearing is filed with the City secretary within ten (10) days following service of such notice of revocation. If a request for hearing is filed, a hearing shall be scheduled within thirty (30) days of the city's receipt of such request. If no request for hearing is filed within the ten (10) day period, the revocation of the permit becomes final.

Sec. 33-16. Service of notice.

A notice provided for in this article is properly served when it is delivered to the permit holder or the person in charge of the establishment or when it is sent by registered or certified mail, return receipt requested, to the last known address of the permit holder or when it is delivered by the city in person to the last known address of the permit holder.

Sec. 33-17. Hearings.

The hearings provided for in this article shall be held in the municipal court and presided over by a municipal court judge. Based upon the recorded evidence of such hearing, the municipal court judge shall make a final finding and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder, and a copy shall be filed with the city secretary.

Sec. 33-18. Application for a new permit after revocation.

The permit holder that has been revoked must wait 180 days after the final date of the revocation decision before making written application for a new permit.

Secs. 33-19—33-30. Reserved.

ARTICLE III. INSPECTIONS

Sec. 33-31. Access.

Agents of the city, after proper identification, shall be permitted to enter any food service establishment at any reasonable time for the purpose of making inspections to determine compliance with this article. The agents shall be permitted to examine the records of the establishments to obtain information pertaining to food and supplies purchased, received or used, or to persons employed.

Sec. 33-32. Frequency.

- (a) When an initial health permit is issued, prompted by a new business or commercial change of occupant, an inspection that produces a graded score will be conducted within sixty (60) days of service launch.
- (b) An inspection of a food service establishment should be performed on each food establishment within the city at least every six (6) months, and additional inspections shall be performed as often as necessary for the enforcement of this chapter. Any establishment scoring 75 or below on an inspection will automatically receive a follow-up inspection within ten (10) days. A re-inspection fee must be paid prior to follow up inspection. Failure to pay re-inspection fee or a second score of 75 or below on an inspection shall result in an order to immediately cease all food service operations. Any person, firm, or food establishment proven to have failed to immediately cease all food service operations upon

an order from the city shall be deemed guilty of a misdemeanor and shall, upon conviction by a court of competent jurisdiction, be assessed fines or other punishment as provided by this Code.

- (c) If a food establishment is being inspected for the first time by the City code enforcement officer/health officer, the following additional requirements apply:

 - (1) For a food establishment located at permanent premises, a code enforcement officer/health officer will only conduct an inspection to obtain a food service permit after the food establishment has passed final inspections by the building official and the fire marshal, or their respective designees.
 - (2) A food establishment located at permanent premises may not store any food defined as time/temperature control for safety food (TCS) at the premises until after the code enforcement officer/health officer has completed his/her inspection and the food establishment has passed said inspection. If a food establishment is found to have TCS food on the premises at the time of an initial health inspection, the code enforcement officer/health officer may order the TCS food to be disposed of properly if it is found to have been kept in unsafe conditions.
- (d) Whenever an inspection of a food establishment is conducted, the findings shall be recorded in an inspection report, and a copy of each inspection report with number score and corresponding letter grade shall be provided to the food service manager or other person in charge of the establishment. The rating score of the establishment shall be the total of the weighted point values for all violations, subtracted from 100. The code enforcement officer/health officer shall post the grade/score placard corresponding to the food establishment's inspection report upon an inside wall or window near the main public entrance of the establishment in a location readily visible to consumers, and such grade/score placard shall not be defaced or removed by any person except the code enforcement officer/health officer. Any person, firm, or corporation who fails to properly post the inspection report or the corresponding letter/score placard, or removes, defaces, or alters the inspection report or the corresponding letter/score placard, as required shall be deemed guilty of a misdemeanor and shall, upon conviction by a court of competent jurisdiction, be assessed fines or other punishment as provided by this Code.
- (e) In the case of temporary food service establishments, all violations shall be corrected immediately. If violations are not corrected, the code enforcement officer/health officer shall immediately suspend the health permit. Any person, firm, or establishment who is found to have failed to immediately cease operations upon suspension of temporary health permit shall be deemed guilty of a misdemeanor and shall, upon conviction by a court of competent jurisdiction, be assessed fines or other punishment as provided by this Code.

Sec. 33-33. Correction of violations.

The inspection form shall specify a reasonable period of time to correct the violations and such violations must be corrected within the specified period; provided, however, that:

- (1) If an imminent health hazard exists the establishment, including a mobile food unit, shall immediately cease food service operations and operations shall not be resumed until authorized by the city; and
- (2) All violations at temporary food establishments shall result in cessation of temporary food service operations.
- (3) The establishment or mobile food unit shall not resume operations until such time as a re-inspection determines that the condition(s) responsible for the requirement to cease operations no longer exists. The city shall offer to re-inspect the establishment within a reasonable time.

Sec. 33-35. Power Failure.

- (1) Power failure greater than thirty (30) minutes and less than four (4) hours. If there is a power failure, mechanical failure, or other condition that results in an internal machine thermometer that cannot maintain food temperatures, and such condition continues for a length of time greater than thirty (30) minutes but less than four (4) hours, the following steps must be taken:
 - a. The food establishment must be closed during the power failure;
 - b. A log must be kept of the time that the power failure initially occurred, the temperature of the food at that time, and the time and temperature of the TCS food at one (1) hour intervals until the power is restored;
 - c. The regulatory authority must be notified immediately of the power failure greater than three (3) hours; and
 - d. Documentation must be provided to the regulatory authority immediately upon request.
- (2) Power failure greater than four (4) hours. (In addition to those above in subsection 1) If there is a power failure, mechanical failure, or other condition that results in an internal machine thermometer that cannot maintain food temperatures, and such condition continues for a length of time greater than four (4) hours, the following steps must be taken:
 - a. All TCS food must be disposed of. Documentation of disposal must be provided to the regulatory authority immediately upon request.
 - b. If required by the City, the food establishment may not re-open until an inspection has been conducted by the regulatory authority.

Sec. 33-36. Examination, Detention, and Destruction of Food.

- a. The regulatory authority may examine and collect samples of food as often as necessary for the enforcement of this subchapter.
- b. The regulatory authority shall, upon written notice to the owner or person in charge, specifying the reasons therefor, place any food under detention which it has probable cause to believe is adulterated, misbranded, in violation of this chapter, or a hazard to public health. The City shall tag, label, or otherwise identify any food subject to the detention order. No food subject to a detention order shall be used, served or moved from the establishment. The regulatory authority shall allow storage of the detained food under conditions specified in the detention order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished. The detention order shall state that a request for hearing may be filed within ten (10) days and that if no hearing is requested the food shall be destroyed. A hearing shall be held if so requested and, on the basis of evidence produced at the hearing, the detention order may be vacated or the person in charge of the food may be directed by written order to destroy such food or to bring it into compliance with the provisions of this subchapter.
- c. Time temperature control for safety foods (TCS). Immediate destruction of TCS food shall be ordered and accomplished if:
 - a. The TCS food is in a container or package that does not bear a date or day, and is not properly labeled to show evidence that the TCS food is less than seven (7) days old;
 - b. The TCS food is at a temperature of greater than 5 degrees Celsius (41 degrees Fahrenheit) and less than a temperature of 57 degrees Celsius (135 degrees Fahrenheit);
 - c. When using time as a public health control, the TCS food exceeds the time that is four (4) hours past the point in time when the food is removed from temperature control; or
 - d. When the food is deemed a hazard by the code enforcement officer/health officer.

ARTICLE IV. CONSTRUCTION, REMODELING AND CONVERSION

Sec. 33-51. Plans.

- (a) No construction, remodeling, or alteration of a permitted food establishment shall be conducted without any and all required permits.
- (b) One (1) hard copy and an electric copy of properly prepared plans and specifications for each construction, remodeling, or alteration of a food establishment shall be submitted to the permit department prior to any on-site construction. The plans must be drawn to scale no smaller than one-eighth (1/8") inch and shall consist of a plot plan, floor plan, foundation

plan, structural plan, plumbing plan, elevation plan, wall section, engineer's scale and survey (if required by applicable law), mechanical and electrical details, and health equipment detail with elevations, any of the City of Manvel standard details that apply, and the city's signature block on the first page.

(c) All food establishments shall have a minimum of a 500-gallon grease trap/interceptor.

(1) Under sink grease traps for all food establishment shall be strictly prohibited. The only exception is for MFU's.

(2) Servicing of grease interceptors. Food service establishments must service grease interceptors quarterly. The regulatory authority may require that the food service establishment service the grease interceptors more frequently, if deemed necessary.

(3) Report of service. Each establishment may be required to provide the regulatory authority with a copy of the grease interceptors servicing manifest or invoice immediately after the grease interceptor has been serviced. The invoice shall contain the name and address of the food service establishment; the name and address of the licensed waste carrier; the name and address of the licensed disposal site; the signature of the operator of the establishment, the waste carrier and the disposal site; and the quantity and date of grease removal and disposal.

(d) All food prep areas shall have smooth wall board. Such as FRP (fiberglass reinforced panels.). No rough or porous wall board will be allowed.

Sec. 33-52. Other code requirements.

A building permit shall be required for construction, alteration, remodeling or conversion of a food establishment in accordance with the International Building and Fire Codes and any and all codes adopted by the city. Any construction, alteration, remodeling, or conversion of a food establishment shall comply with all applicable federal and state laws and codes and regulations of the city. To the extent of a conflict between or among the provisions of this chapter and other codes or ordinances of the city, the more restrictive provision shall control.

Sec. 33-53. Ownership of food establishment.

(a) When an existing food establishment is purchased and the purchase does not include the property or the structure, but includes the rental or lease of space and/or equipment, the city requires that the person who operates the food establishment obtain a valid food establishment's permit. The person who applies for the food establishment's permit is considered, legally, to be the owner.

(b) A food establishment permit will become void upon closing of any sale of the establishment. A new owner must submit an application for change of occupancy and an annual food establishment permit within thirty (30) days of finalizing the sale, pass an inspection, and make a payment for the annual food establishment permit prior to operation. All food establishment permits remain the property of the city.

- (c) When a food establishment sublets or rents a space or section of the establishment to a secondary party and that secondary party operated the space conjointly or separately from the first establishment, the secondary party will be considered a separate entity and must obtain a health permit separate from the first establishment.
- (c) The person who is registered on the food establishment's permit is the responsible party for the property, premises, structure and complete operating services. The operator of the food establishment is the ultimate responsible party, and the conditions under which the food establishment was leased or rented does not release the operator from the requirements of this article.
- (d) A new owner may continue to operate a food establishment without interruption from the city when the establishment is in complete compliance with this chapter. Total compliance is the basis for issuing the food establishment's permit, which must be obtained prior to opening the establishment for business. An inspection of the premises and operations can demonstrate the extent to which the food establishment is in compliance. Such inspection and issuance of a new permit must be conducted within 30 days of purchase. Upon normal conditions, depending on the condition of the food establishment, many violations can be corrected within such a short period of time that an interruption of food services is unnecessary and not required.
- (d) Depending on the wear and tear (depreciation) on the establishment, the building and equipment may already be close to compliance, and it is the responsibility of the new owner to schedule an inspection from the city to determine what is required to meet current codes.

Appendix A Food Establishments Grade Placard

(a) GRADE/SCORE PLACARDS

- (1) Each food establishment inspection begins with 100 points. As a code enforcement officer/health officer conducts an inspection, the appropriate sub-categories in the Food Establishment Inspection Report of the Texas Department of State Health Services (*Texas Food Establishment Rules 2015*), will be marked. The sub-categories are assigned a specific point value based on the associated public health risk of the violation. Point value is deducted from the 100 points if violations are observed by the officer conducting the inspection. (Refer to the *Texas Food Establishment Rules 2015* for a more detailed explanation of these sections.) An example provided in the table below.

<u>Beginning of the Inspection</u>	<u>100 points</u>
<u>Total points deducted</u>	<u> </u>
<u>Remaining points</u>	<u>Grade or Score</u>

- (2) A grade placard will be issued to each food establishment with a score of seventy-six to one hundred (76 to 100) at the end of all routine inspections. The placard issued will be based upon the score received on the Retail Food Establishment Inspection Report. The grading is calculated as follows:

Points:	Grade:	Description:
92— 100	A	Generally superior in food handling practices and overall food facility maintenance.
91— 84	B	Generally good in food handling practices and overall food facility maintenance.
83— 76	C	Generally acceptable in food handling practices and overall general food facility maintenance.
0—75	Score	Poor in food handling practices and overall general food facility maintenance.

- (3) A facility receiving a score of seventy-five (75) or below will be issued a score placard and not a grade placard. The score placard will indicate the actual score received.
- (4) The grade or score placard must remain posted until the next routine inspection, at which time the code enforcement officer/health officer shall post a new grade or score placard to replace the previous document. This replacement placard must be posted as described above.
- (5) All food establishments presenting a substantial hazard to public health may be subject to closure regardless of the score received on the inspection report.
- (6) Any food establishment receiving a score of less than fifty (50) shall constitute a substantial hazard to public health and will be subject closure and revocation of the health permit.

Sec. 33-54. Owner-Initiated Inspection.

Within three (3) business days an inspection where graded score is issued, the owner of a food service establishment may apply for an owner-initiated inspection to be performed by the city. Such application shall be accompanied by payment of a fee in the amount specified in the latest fee schedule resolution adopted by the city. Such fee shall be in addition to any re-inspection fees associated with re-inspection necessitated by violations identified during the inspection process. Such owner-initiated inspection shall be conducted within thirty (30) calendars days or the request. After such owner-initiated inspection, the City will issue a new inspection graded score based on the owner-initiated inspection, and such placard shall be posted in accordance

with this chapter. At least twelve (12) months must elapse between any owner-initiated inspections for each food establishment. “

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 _____,
2022.

PASSED, APPROVED, AND ADOPTED on second and final reading this _____ day of _____, 2022.

Debra Davison, Mayor

ATTEST:

Tammy Bell, City Secretary

APPROVED AS TO FORM:

Robert Gervais, City Attorney

Chapter 33 Health Permit [Food AND FOOD HANDLERS]

ARTICLE I. IN GENERAL

The purpose of the Chapter is to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly resented. This Chapter establishes set standards for management and person, food operations, and equipment and facilities; and provides for food establishment plan review, permit issuance, inspection, and permit revision.

Sec. 33-1. Definitions

Employee shall mean any person who handles food or drink during preparation or serving, or who comes in contact with any eating or cooking utensils, or who is stationed in a room in which food or drink is prepared or served, including but not limited too the permit holder, person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in the food establishment.

Food means (1) articles used for food or drink for human consumption; (2) a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, (3) chewing gum, and (4) components of any such article.

Hair Restraints shall mean a hat, hair covering or net, beard restraint, or clothing that covers body hair and is designed and worn to effectively keep hair from contacted exposed food, equipment, utensils, linens, or single-use and single-service articles. This requirement does not apply to food employees, such as counter staff, who only serve beverages and wrapped or packaged foods, hostesses, and wait staff, if they present a minimal risk of contaminating exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles, whose hair is secured.

Health officer shall mean any person in the code enforcement/health office, or other person designated by the city manager, assigned to inspect food establishments, educate food establishment employees and food employees on local and state statutory requirements for health and safety in food service, and enforce all local and state health and safety laws as permitted by law.

Imminent health hazard shall mean a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operations to prevent injury based on the number of potential injuries and the nature, severity, and duration of the anticipated injury; including but not limited too a complete rack of refrigeration, sewage back-up into the establishment, or an inspection score less than fifty (50).

Misbranded-food shall mean be deemed misbranded if:

- (i) Its labeling is false or misleading in any particular;
- (ii) It is offered for sale under the name of another food;
- (iii) It is an imitation of another food, unless its label bears the word "imitation" in type of uniform size and prominence and immediately thereafter the name of the food imitated; and except in cases of mixture and compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not an imitation of or offered for sale

under the distinctive name of another article if the name is accompanied on the same label or brand with a statement of the place where said article has been manufactured or produced. No one administering this chapter may constitute oleomargarine as an imitation of butter;

- (iv) The container is so made, formed, or filled as to be misleading;
- (v) It is in package form without a label containing: (a) the common name of the food, (b) the name and place of business of the manufacturer, packer, or distributor; (c) an accurate statement of the quantity of the content in terms of weight, measure, or numerical count; and (d) the name of the food source for each major food allergen contained in the food unless the food source is already part of the common name;
- (vi) If any word, statement, or other information required by or under authority of this chapter of state law to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
- (vii) If it purports to be or is represented as food for which a definition and standard of identity has been prescribed by state regulations, unless, (a) it conforms to such definition and standard, and (b) its label bears the name of the food specified in the definition and standard, and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such foods;
- (viii) If it purports to be or is represented as: (a) A food for which a standard of quality has been prescribed by state regulations, and its quality falls below such standard unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard; or (b) A food for which standard or standards of fill of container have been prescribed by state regulations, and it falls below the standard of fill container applicable thereto, unless it labels bears, in such manner and form as such regulations specify, a statement that it falls below such standard;
- (ix) If it is not subject to the provisions above, unless it bears labeling clearly giving: (a) the common or usual name in the food, if any there be; and (b) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such may be designated as spices flavorings, and colorings, without naming each; provided that, to the extent that compliance with the requirements of clause (b) of this subsection is impractical or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the state commissioner of health; provided further that the requirements above shall not apply to any bottled carbonated drinks or soft drinks and, provided further, that clause (b) of this subsection shall not apply to any bottled carbonated drinks or soft drinks or the dispensing of carbonated soft drinks in single service cups. Nothing in this chapter shall be construed as requiring proprietors or manufacturers of proprietary foods which contain no unwholesome added ingredients to disclose their trade formulas except insofar as the provisions of the law require to secure freedom of adulteration or misbranding;
- (x) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral and other dietary properties as the state commissioner of health determines to be, and by regulations prescribed, as necessary in order to inform purchasers as to its value for such uses; or
- (xii) If it bears or contains any artificial flavorings, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided that, to the extent that compliance with the requirements of this subsection is impracticable, exemptions shall be established by regulations

promulgated by the state commissioner of health. The provisions of this subsection and subsections (vii) and (ix) with respect to artificial coloring are not to apply in the case of butter, cheese, and ice cream.

Nonprofit organization/establishment shall mean an organization whose operations is not conducted or maintained for the purpose of making a profit, and from which its shareholders or trustees do not benefit financially. Nonprofit status must be verified by submission of supporting documentation, such as an IRS form 501c.

Private water system shall mean a drinking water system that is not connected to a public water system and is not regulated by the Texas Commission on Environmental Quality, including private wells. Such systems have additional requirements, including, but not limited to, water sampling and testing every six months. Upon request, proof of testing may be required and documents submitted to the regulatory authority.

Regulatory authority shall mean the City of Manvel, Texas.

Temporary food establishment shall mean a food establishment that operates for a period of no more than ten (10) consecutive days in conjunction with a single event or celebration. This may include a stand or a booth.

Restaurant shall mean restaurant, coffee shop, cafeteria, short-order café, luncheonette, tavern, sandwich shop, sandwich stand, soda fountain, hospitals, institutions, private, public and parochial school lunchrooms, private and semi-private clubs, stadium concession stand, and all other food or beverage establishments, as well as other kitchens or other places in which food or drink is prepared for serving or for sale elsewhere.

State law definitions shall mean any term used in this chapter and not specifically defined herein shall have the meaning ascribed to it in the *Texas Food, Drug and Cosmetic Act*, V.T.C.A., Health and Safety Code, Ch. 431.

Time/Temperature Controlled for Safety (TCS) Food shall mean a food that requires time/temperature controlled for safety to limit pathogenic microorganism growth or toxin formation.

Utensils shall mean and include any kitchenware, tableware, glassware, cutlery, vessels, containers, or other equipment with which food or drink comes in contact during storage, preparation, serving, eating, or drinking.

Sec 33-2. State regulations adopted.

- (a) The city adopts by reference the *Texas Food Establishment Rules 2015* The *Texas Food Establishment Rules 2015* shall be considered incorporated herein by reference for all purposes.
- (b) From and after enactment of this chapter, the *Texas Food Establishment Rules 2015* shall govern the regulation of food and food establishments in the city in addition to any other requirements set forth in this chapter and other applicable laws and regulations. For purposes of this chapter, the words, terms and phrases set forth in the *Texas Food Establishment Rules 2015* as definitions shall have the meanings and interpretations set forth therein.
- (c) Except as where may be specifically stated herein, this chapter shall be enforced by the city code enforcement officer/health officer, or such other personnel designated by the city manager.
- (d) A copy of the *Texas Food Establishment Rules 2015* shall be on file in the office of the city secretary.

Sec. 33-3. Local amendments and definitions.

The *Texas Food Establishment Rules 2015* adopted in section 33-1 are hereby amended as follows:

- (1) The following provisions are added:
 - a. 228.2(153) Code enforcement/health officer - A city "code enforcement officer" or "health officer" shall mean any person in the health office/code enforcement office, or other person designated by the city manager, assigned to inspect food establishments, educate food establishment employees and food employees on local and state statutory requirements for health and safety in food service, and enforce all local and state health and safety laws as permitted by law.
 - b. 228.2(154) Reconstituted - Food created or prepared by recombining dehydrated food products with water or other liquids.
 - c. 228.2(155) Sanitation - Effective bactericidal treatment process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on tableware, utensils, ~~and~~ equipment, and alike.
 - d. 228.186(o)(2)(F) - Service Animals - In areas that are not used for food preparation or storage, a food establishment may, at the owner or manager's discretion, or where required by law, allow patrons to bring service animals on the premises. Notices stating where a patron is allowed to bring service animals on the premises shall be posted in all areas where the service animals are to be allowed by the food establishment.
- (2) The following provisions are adopted in place of the identically numbered provisions in the *Texas Food Establishment Rules 2015*:
 - a. 228.2(57) Food establishment - Food establishment means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, whether for charge or not, as follows:
 1. A restaurant, retail food store, satellite or catered feeding location, catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people, market, vending machine location, self-service food market, conveyance used to transport people, institution, or food bank. This includes any establishment where prepackaged Time/Temperature Control for Safety (TCS) food and food products are offered to the ultimate consumer and intended for off premise consumption;
 2. An establishment that relinquishes possession of food to a consumer directly, or indirectly through a delivery service, such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers; and
 3. Includes an element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location, unless the vending or feeding location is permitted by the regulatory authority.
 4. An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises regardless if there is a charge for the food.
 5. Food establishment does not include
 - a. An establishment that offers only prepackaged foods that are not TCS foods;
 - b. A produce stand that only offers whole, uncut fresh fruits and vegetables;

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- c. A food processing plant;
 - d. A cottage food production operation; or
 - e. A private home that receives catered or home-delivered food.
- b. 228.2(59) Food Protection Manager Certification- A document obtained by a person in charge who demonstrates knowledge by being a food protection manager that is certified by a food protection manager certification program that is evaluated and listed by a Conference for Food Protection-recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of food Protection Manager Certification Programs. Food establishments having multiple preparation areas or at such distance that a single individual may not effectively supervise activities in each, must have a person in charge who has a valid food service manager's certification located in each area.
- c. 228.2(85) Mobile Food Unit (MFU) - A vehicle mounted, self or otherwise propelled, self-contained food service operation, designed to be readily movable (including, but not limited to, trailers and food hand cart) and used to store, prepare, display, serve, or sell food. Mobile units must completely retain their mobility at all times. A Mobile Food Unit does not mean a stand or a booth. A Mobile Food Unit operating in the City must have onsite at least one food employee who possesses a food manager certification.
- d. 228.2(143) Temporary food establishment - A food establishment that operates a stand or booth for a period of no more than ten (10) consecutive days in conjunction with a single event or celebration. A temporary food establishment operating in the City must have onsite at least one food employee who possesses a food manager certification.
- e. 228.42(a)(2) is amended by changing "closed beverage container" to "screw top lid" and adding a requirement that management designate a specific location to store all approved employee beverage containers.

Sec. 33-3. Application of chapter.

- (a) This chapter shall apply to all areas within the corporate limits of the city.
- (b) Persons or organizations whose food services are regulated and regularly inspected by another federal or state governmental entity are required to comply with this chapter.
- (c) If there is a conflict between a provision of this chapter and another provision of the City Code or state law, the more stringent provision shall apply.

Sec. 33-4. Enforcement.

Except as where may be specifically stated herein, this chapter shall be enforced by the City code enforcement officer/health officer, or such other personnel designated by the city manager.

Sec. 33-5. Penalty.

- (a) All provisions of this chapter shall be applicable to all food establishments, unless otherwise required by law.
- (b) No food establishment shall be operated within the city unless it conforms with the provisions of this chapter.
- (c) Any person or establishment deemed in violation of this chapter may be subject to permit suspension or revocation.

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- (d) Any person who intentionally, knowingly, willfully, or with criminal negligence violates any provision of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not exceeding \$2,000.00. Each day of violation of this chapter shall constitute a separate offense. Prosecution in municipal court shall be in addition to other remedies provided in this chapter, by law, or in equity.
 - (e) A license holder shall ensure that the food establishment is in full compliance with this chapter at all times.
 - (f) The person in charge shall ensure that the food establishment is operated in full compliance with this chapter and that all food is stored, prepared, displayed and served in accordance with the provisions of this chapter.
 - (g) All mobile food unit and temporary food establishment vendors must comply with the requirements of the City Code, chapter 35, article X, as amended from time to time.

Sec. 33-6. Injunction.

- (a) If it appears that a person has violated, is violating, or threatens to violate this chapter, the city may institute a civil suit in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation.
- (b) The city may petition a district court for a temporary restraining order to immediately halt a violation or other action creating an emergency condition if it appears that:
 - (1) A person is violating or threatening to violate this chapter; and
 - (2) The violation or threatened violation creates an immediate threat to the health and safety of the public.

Secs. 33-7—33-9. Reserved.

ARTICLE II. HEALTH PERMIT

Sec. 33-10. Required.

- (a) Health Permit. No person shall operate a food establishment without possessing a valid health permit issued by the City through the permits department. Such permit be known as a "health permit", a "temporary food establishment health permit", or a "mobile food unit health permit", hereinafter referred to collectively as "permit", "permits", or "health permit". Only a person who complies with the requirements of this chapter shall be entitled to receive or retain such a permit. All health permits issued by the City remain the property of the City.
- (b) The non-refundable annual fee for a food establishment health permit, other than that issued to a nonprofit organization, daycare, or institution, will be based on the square footage of the establishment.
- (c) Permits are not transferable from one person or place to another person or place. A valid permit shall be posted in view of the public in every food establishment, temporary food establishment, and mobile food unit.
- (d) Each and every food establishment, whether under one roof or not, operating separate POS systems, or subletting a location/area from lessee, shall be considered a separate establishment, and a permit must be obtained for each establishment. Each such establishment is subject to the requirements in this chapter.

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- (e) Application. All applications must be completely and accurately filled out, and all requirement documentation must be submitted. Any fraudulent information may cause revocation of any and all issued health permits.
- (1) Any person desiring to obtain a health permit shall make written application for such permit on forms provided at the city's permits department or on the city's website. Such application shall include the applicant's full name and mailing address; the location of proposed food establishment; and the signature of the applicant or applicants.
 - (2) Any person desiring to obtain a temporary food establishment health permit shall make written application for such permit, at least three (3) days before prior to the beginning of the temporary food establishment operation, on forms provided at the city's permits department or on the city's website. In addition to the information listed in subsection (1) above, such application shall include
 - a. The inclusive dates of the proposed operations;
 - b. The name, address, and telephone number of the owner or owners of the property where the temporary food service establishment is to be located; and
 - c. A statement signed by the owner(s) of the property or his/her authorized agent, stating that arrangements have been made for the proper disposal of all rubbish, trash, garbage, and for maintaining the property free from litter and nuisances during the total period of operation up to and including any cleanup time required to remove all rubbish, trash, garbage, and litter resulting from the food service. A description of such arrangements must be included.
 - (4) Any person desiring to obtain a mobile food unit health permit shall make written application for such permit on forms provided at the city's permits department or on the city's website. Should an individual or entity own more than one mobile food unit, a health permit must be obtained to each individual mobile food unit. In addition to the information listed in subsection (1) above, such application shall include
 - a. The physical address where the mobile food unit is stationed when not in use;
 - b. The business name and address of the central preparation facility or other fixed food service establishment where the potentially hazardous food supplies are obtained;
 - c. The address of the servicing area; and
 - d. A description of the mobile food unit which includes the manufacturer's make, model, serial or VIN number, and the vehicle's state registration number.
 - (5) A permit holder must notify the City of any changes to the information submitted in an application for the permit, including but not limited to, change of address or telephone number. The notification must be given to the City in writing within ten (10) days of the change.
- (f) The permit department shall issue the appropriate permit to the applicant if inspection reveals that the proposed food establishment complies with the requirements of this chapter. All temporary food establishments and mobile food unit vendors must comply with the requirements of the City Code, Chapter 35, article X.

Sec. 33-11. Duration.

Permits shall be issued annually and shall extend from the date of issuance or renewal, until June 30th each year. All Health Permits issued by the city expire on June 30th each year. Annual renewal applications must be submitted at least fourteen (14) days prior to the expiration date of the permit.

Temporary food establishment health permits shall extend from the first date of service until ten (10) days after the first date of service. All temporary food vendor permit applications must be submitted at least three (3) days before the first event day. Applications received after less than three (3) days before the first event day may be imposed with additional fees.

Mobile food unit health permits shall be issued annually and shall extend from the date of issuance or renewal, until the first day of the issuance month the following year. Annual renewal applications must be submitted at least fourteen (14) days prior to the expiration date of the permit.

Sec. 33-12. Fees.

- (a) Before any permit shall be issued under this chapter, the applicant shall pay the applicable fees set forth in the latest fee schedule resolution adopted by the city. All food establishments shall be obligated to pay an annual permit fee as specified in the latest fee schedule resolution adopted by the city.
- (b) The re-inspection fee set forth in the latest fee schedule resolution adopted by the city shall apply in cases where re-inspection is deemed necessary by the City's code enforcement officer/health officer.
- (c) Health permit renewal applications received after the expiration date of issued permit fee shall include a late fee as set for in the latest fee schedule resolution adopted by the city.

Sec. 33-13. Refunds/proration.

Permit fees are not refundable and shall not be prorated.

Sec. 33-14. Suspension.

- (a) The City, without warning, may suspend any health permit to operate a food establishment, temporary food establishment, and/or mobile food unit, if the operation of the establishment does not comply with the requirements of this chapter, the permit holder does not comply with the requirements of this chapter, or if the operation of the establishment otherwise constitutes a substantial health hazard or immediate threat to the health and safety of the public. Suspension is effective upon written notice and issuance, and service operations shall immediately cease.
- (b) Whenever a permit is suspended, the city shall notify the permit holder or the person in charge of the food establishment in writing of the reason(s) for which the permit is suspended and inform them of the opportunity for a hearing before the city municipal court. If the permit holder requests a hearing, they shall file their written request for a hearing with the city secretary within ten (10) days following service of such notice of suspension. If a request for hearing is filed, a hearing shall be scheduled within ten days of the City's receipt of such request. If no request for hearing is filed within the ten-day period, the suspension of the permit is sustained. The city's code enforcement officer/ health officer may end the suspension at any time if reasons for suspension no longer exist.
- (c) Whenever a food service license is suspended, it may be physically removed from the premises by the code enforcement officer/health officer and retained at the office of the code enforcement officer/health officer until the suspension has been lifted or modified.
- (d) Whenever a mobile food unit license is suspended, it shall be physically removed from the mobile food unit in violation by the code enforcement officer/health officer.
- (e) All hearings shall be held in the municipal court and presided over by a municipal court judge. All hearings shall be, as much as practicable, conducted pursuant to the Texas Rules of Civil Procedure.

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- (f) If the permit holder fails to appear at the hearing at the time, place, and date specified, the city shall present sufficient evidence to establish a prima facie case showing violation of this chapter or conditions constituting a hazard to public health which formed the basis of the suspension of the license.
 - (g) If the municipal court finds that the food establishment was, in fact, in violation of this chapter or that it constituted a hazard to public health, the court shall make written findings of fact and shall order the permit suspended until all violations of this chapter are corrected and any conditions constituting a hazard to public health are eliminated. A copy of the findings and order of the court shall be either given to the responsible party upon conclusion of the hearing, or sent by certified mail, return receipt requested, to the permit holder. If the municipal court finds that the public interest will be adequately protected by a warning or other penalty authorized under this chapter, it may reinstate the permit.
 - (h) Whenever the reasons for a suspension no longer exist, the permit holder or the person in charge shall notify the permits department that the conditions under which the permit was suspended have been corrected and that an inspection is requested. Upon receipt of request and payment of any required re-inspection fee, such inspection shall be conducted as soon as possible and in no event, no later than three (3) regular working days after the receipt of the request for inspection.

Sec. 33-15. Revocation.

The city may revoke a permit for serious or repeated violation(s) of any of the requirements of this chapter or for interference with the health official/code enforcement officer in the performance of his/her duties. Prior to revocation, the city shall notify the permit holder or the person in charge of the food establishment in writing of the reason(s) for which the permit is subject to revocation, and that the permit shall be revoked at the end of the ten (10) calendar days following service of such notice unless a written request for a hearing is filed with the City secretary within ten (10) days following service of such notice of revocation. If a request for hearing is filed, a hearing shall be scheduled within thirty (30) days of the city's receipt of such request. If no request for hearing is filed within the ten (10) day period, the revocation of the permit becomes final.

Sec. 33-16. Service of notice.

A notice provided for in this article is properly served when it is delivered to the permit holder or the person in charge of the establishment or when it is sent by registered or certified mail, return receipt requested, to the last known address of the permit holder or when it is delivered by the city in person to the last known address of the permit holder.

Sec. 33-17. Hearings.

The hearings provided for in this article shall be held in the municipal court and presided over by a municipal court judge. Based upon the recorded evidence of such hearing, the municipal court judge shall make a final finding and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder, and a copy shall be filed with the city secretary.

Sec. 33-18. Application for a new permit after revocation.

The permit holder that has been revoked must wait 180 days after the final date of the revocation decision before making written application for a new permit.

Secs. 33-19—33-30. Reserved.

ARTICLE III. INSPECTIONS

Sec. 33-31. Access.

Agents of the city, after proper identification, shall be permitted to enter any food service establishment at any reasonable time for the purpose of making inspections to determine compliance with this article. The agents shall be permitted to examine the records of the establishments to obtain information pertaining to food and supplies purchased, received or used, or to persons employed.

Sec. 33-32. Frequency.

- (a) When an initial health permit is issued, prompted by a new business or commercial change of occupant, an inspection that produces a graded score will be conducted within sixty (60) days of service launch.
- (b) An inspection of a food service establishment should be performed on each food establishment within the city at least every six (6) months, and additional inspections shall be performed as often as necessary for the enforcement of this chapter. Any establishment scoring 75 or below on an inspection will automatically receive a follow-up inspection within ten (10) days. A re-inspection fee must be paid prior to follow up inspection. Failure to pay re-inspection fee or a second score of 75 or below on an inspection shall result in an order to immediately cease all food service operations. Any person, firm, or food establishment proven to have failed to immediately cease all food service operations upon an order from the city shall be deemed guilty of a misdemeanor and shall, upon conviction by a court of competent jurisdiction, be assessed fines or other punishment as provided by this Code.
- (c) If a food establishment is being inspected for the first time by the City code enforcement officer/health officer, the following additional requirements apply:
 - (1) For a food establishment located at permanent premises, a code enforcement officer/health officer will only conduct an inspection to obtain a food service permit after the food establishment has passed final inspections by the building official and the fire marshal, or their respective designees.
 - (2) A food establishment located at permanent premises may not store any food defined as time/temperature control for safety food (TCS) at the premises until after the code enforcement officer/health officer has completed his/her inspection and the food establishment has passed said inspection. If a food establishment is found to have TCS food on the premises at the time of an initial health inspection, the code enforcement officer/health officer may order the TCS food to be disposed of properly if it is found to have been kept in unsafe conditions.
- (d) Whenever an inspection of a food establishment is conducted, the findings shall be recorded in an inspection report, and a copy of each inspection report with number score and corresponding letter grade shall be provided to the food service manager or other person in charge of the establishment. The rating score of the establishment shall be the total of the weighted point values for all violations, subtracted from 100. The code enforcement officer/health officer shall post the grade/score placard corresponding to the food establishment's inspection report upon an inside wall or window near the main public entrance of the establishment in a location readily visible to consumers, and such grade/score placard shall not be defaced or removed by any person except the code enforcement officer/health officer. Any person, firm, or corporation who fails to properly post the inspection report or the corresponding letter/score placard, or removes, defaces, or alters the inspection report or the corresponding letter/score placard, as required shall

be deemed guilty of a misdemeanor and shall, upon conviction by a court of competent jurisdiction, be assessed fines or other punishment as provided by this Code.

- (e) In the case of temporary food service establishments, all violations shall be corrected immediately. If violations are not corrected, the code enforcement officer/health officer shall immediately suspend the health permit. Any person, firm, or establishment who is found to have failed to immediately cease operations upon suspension of temporary health permit shall be deemed guilty of a misdemeanor and shall, upon conviction by a court of competent jurisdiction, be assessed fines or other punishment as provided by this Code.

Sec. 33-33. Correction of violations.

The inspection form shall specify a reasonable period of time to correct the violations and such violations must be corrected within the specified period; provided, however, that:

- (1) If an imminent health hazard exists the establishment, including a mobile food unit, shall immediately cease food service operations and operations shall not be resumed until authorized by the city; and
- (2) All violations at temporary food establishments shall result in cessation of temporary food service operations.
- (3) The establishment or mobile food unit shall not resume operations until such time as a re-inspection determines that the condition(s) responsible for the requirement to cease operations no longer exists. The city shall offer to re-inspect the establishment within a reasonable time.

Sec. 33-35. Power Failure.

- (1) Power failure greater than thirty (30) minutes and less than four (4) hours. If there is a power failure, mechanical failure, or other condition that results in an internal machine thermometer that cannot maintain food temperatures, and such condition continues for a length of time greater than thirty (30) minutes but less than four (4) hours, the following steps must be taken:
 - a. The food establishment must be closed during the power failure;
 - b. A log must be kept of the time that the power failure initially occurred, the temperature of the food at that time, and the time and temperature of the TCS food at one (1) hour intervals until the power is restored;
 - c. The regulatory authority must be notified immediately of the power failure greater than three (3) hours; and
 - d. Documentation must be provided to the regulatory authority immediately upon request.
- (2) Power failure greater than four (4) hours. (In addition to those above in subsection 1) If there is a power failure, mechanical failure, or other condition that results in an internal machine thermometer that cannot maintain food temperatures, and such condition continues for a length of time greater than four (4) hours, the following steps must be taken:
 - a. All TCS food must be disposed of. Documentation of disposal must be provided to the regulatory authority immediately upon request.
 - b. If required by the City, the food establishment may not re-open until an inspection has been conducted by the regulatory authority.

Sec. 33-36. Examination, Detention, and Destruction of Food.

- a. The regulatory authority may examine and collect samples of food as often as necessary for the enforcement of this subchapter.
- b. The regulatory authority shall, upon written notice to the owner or person in charge, specifying the reasons therefor, place any food under detention which it has probable cause to believe is adulterated, misbranded, in violation of this chapter, or a hazard to public health. The City shall tag, label, or otherwise identify any food subject to the detention order. No food subject to a detention order shall be used, served or moved from the establishment. The regulatory authority shall allow storage of the detained food under conditions specified in the detention order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished. The detention order shall state that a request for hearing may be filed within ten (10) days and that if no hearing is requested the food shall be destroyed. A hearing shall be held if so requested and, on the basis of evidence produced at the hearing, the detention order may be vacated or the person in charge of the food may be directed by written order to destroy such food or to bring it into compliance with the provisions of this subchapter.
- c. Time temperature control for safety foods (TCS). Immediate destruction of TCS food shall be ordered and accomplished if:
 - a. The TCS food is in a container or package that does not bear a date or day, and is not properly labeled to show evidence that the TCS food is less than seven (7) days old;
 - b. The TCS food is at a temperature of greater than 5 degrees Celsius (41 degrees Fahrenheit) and less than a temperature of 57 degrees Celsius (135 degrees Fahrenheit);
 - c. When using time as a public health control, the TCS food exceeds the time that is four (4) hours past the point in time when the food is removed from temperature control; or
 - d. When the food is deemed a hazard by the code enforcement officer/health officer.

ARTICLE IV. CONSTRUCTION, REMODELING AND CONVERSION

Sec. 33-51. Plans.

- (a) No construction, remodeling, or alteration of a permitted food establishment shall be conducted without any and all required permits.
- (b) One (1) hard copy and an electric copy of properly prepared plans and specifications for each construction, remodeling, or alteration of a food establishment shall be submitted to the permit department prior to any on-site construction. The plans must be drawn to scale no smaller than one-eighth (1/8") inch and shall consist of a plot plan, floor plan, foundation plan, structural plan, plumbing plan, elevation plan, wall section, engineer's scale and survey (if required by applicable law), mechanical and electrical details, and health equipment detail with elevations, any of the City of Manvel standard details that apply, and the city's signature block on the first page.
- (c) All food establishments shall have a minimum of a 500-gallon grease trap/interceptor.
 - (1) Under sink grease traps for all food establishment shall be strictly prohibited. The only exception is for MFU's.

-
- (2) Servicing of grease interceptors. Food service establishments must service grease interceptors quarterly. The regulatory authority may require that the food service establishment service the grease interceptors more frequently, if deemed necessary.
 - (3) Report of service. Each establishment may be required to provide the regulatory authority with a copy of the grease interceptors servicing manifest or invoice immediately after the grease interceptor has been serviced. The invoice shall contain the name and address of the food service establishment; the name and address of the licensed waste carrier; the name and address of the licensed disposal site; the signature of the operator of the establishment, the waste carrier and the disposal site; and the quantity and date of grease removal and disposal.
 - (d) All food prep areas shall have smooth wall board. Such as FRP (fiberglass reinforced panels.). No rough or porous wall board will be allowed.

Sec. 33-52. Other code requirements.

A building permit shall be required for construction, alteration, remodeling or conversion of a food establishment in accordance with the International Building and Fire Codes and any and all codes adopted by the city. Any construction, alteration, remodeling, or conversion of a food establishment shall comply with all applicable federal and state laws and codes and regulations of the city. To the extent of a conflict between or among the provisions of this chapter and other codes or ordinances of the city, the more restrictive provision shall control.

Sec. 33-53. Ownership of food establishment.

- (a) When an existing food establishment is purchased and the purchase does not include the property or the structure, but includes the rental or lease of space and/or equipment, the city requires that the person who operates the food establishment obtain a valid food establishment's permit. The person who applies for the food establishment's permit is considered, legally, to be the owner.
- (b) A food establishment permit will become void upon closing of any sale of the establishment. A new owner must submit an application for change of occupancy and an annual food establishment permit within thirty (30) days of finalizing the sale, pass an inspection, and make a payment for the annual food establishment permit prior to operation. All food establishment permits remain the property of the city.
- (c) When a food establishment sublets or rents a space or section of the establishment to a secondary party and that secondary party operated the space conjointly or separately from the first establishment, the secondary party will be considered a separate entity and must obtain a health permit separate from the first establishment.
- (c) The person who is registered on the food establishment's permit is the responsible party for the property, premises, structure and complete operating services. The operator of the food establishment is the ultimate responsible party, and the conditions under which the food establishment was leased or rented does not release the operator from the requirements of this article.
- (d) A new owner may continue to operate a food establishment without interruption from the city when the establishment is in complete compliance with this chapter. Total compliance is the basis for issuing the food establishment's permit, which must be obtained prior to opening the establishment for business. An inspection of the premises and operations can demonstrate the extent to which the food establishment is in compliance. Such inspection and issuance of a new permit must be conducted within 30 days of purchase. Upon normal conditions, depending on the condition of the food establishment, many violations can be corrected within such a short period of time that an interruption of food services is unnecessary and not required.

- (d) Depending on the wear and tear (depreciation) on the establishment, the building and equipment may already be close to compliance, and it is the responsibility of the new owner to schedule an inspection from the city to determine what is required to meet current codes.

Appendix A Food Establishments Grade Placard

(a) GRADE/SCORE PLACARDS

- (1) Each food establishment inspection begins with 100 points. As a code enforcement officer/health officer conducts an inspection, the appropriate sub-categories in the Food Establishment Inspection Report of the Texas Department of State Health Services (*Texas Food Establishment Rules 2015*), will be marked. The sub-categories are assigned a specific point value based on the associated public health risk of the violation. Point value is deducted from the 100 points if violations are observed by the officer conducting the inspection. (Refer to the *Texas Food Establishment Rules 2015* for a more detailed explanation of these sections.) An example provided in the table below.

Beginning of the Inspection	100 points
Total points deducted	- _____
Remaining points	Grade or Score

- (2) A grade placard will be issued to each food establishment with a score of seventy-six to one hundred (76 to 100) at the end of all routine inspections. The placard issued will be based upon the score received on the Retail Food Establishment Inspection Report. The grading is calculated as follows:

[Points:]

Points:	Grade:	Description:
92— 100	A	Generally superior in food handling practices and overall food facility maintenance.
91— 84	B	Generally good in food handling practices and overall food facility maintenance.
83— 76	C	Generally acceptable in food handling practices and overall general food facility maintenance.
0—75	Score	Poor in food handling practices and overall general food facility maintenance.

- (3) A facility receiving a score of seventy-five (75) or below will be issued a score placard and not a grade placard. The score placard will indicate the actual score received.
- (4) The grade or score placard must remain posted until the next routine inspection, at which time the code enforcement officer/health officer shall post a new grade or score placard to replace the previous document. This replacement placard must be posted as described above.
- (5) All food establishments presenting a substantial hazard to public health may be subject to closure regardless of the score received on the inspection report.
- (6) Any food establishment receiving a score of less than fifty (50) shall constitute a substantial hazard to public health and will be subject closure and revocation of the health permit.

Sec. 33-54. Owner-Initiated Inspection.

Within three (3) business days an inspection where graded score is issued, the owner of a food service establishment may apply for an owner-initiated inspection to be performed by the city. Such application shall be accompanied by payment of a fee in the amount specified in the latest fee schedule resolution adopted by the city. Such fee shall be in addition to any re-inspection fees associated with re-inspection necessitated by violations identified during the inspection process. Such owner-initiated inspection shall be conducted within thirty (30) calendars days or the request. After such owner-initiated inspection, the City will issue a new inspection graded score based on the owner-initiated inspection, and such placard shall be posted in accordance with this chapter. At least twelve (12) months must elapse between any owner-initiated inspections for each food establishment.

Chapter 33 **Health Permit** [Food AND FOOD HANDLERS]

ARTICLE I. IN GENERAL

The purpose of the Chapter is to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly resented. This Chapter establishes set standards for management and person, food operations, and equipment and facilities; and provides for food establishment plan review, permit issuance, inspection, and permit revision.

Sec. 33-1. Definitions

Employee [~~The term "employee"~~] shall mean any person who handles food or drink during preparation or serving, or who comes in contact with any eating or cooking utensils, or who is stationed in a room in which food or drink is prepared or served, ~~including but not limited too the permit holder, person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in the food establishment.~~

Food [~~The term "food"~~] means (1) articles used for food or drink for human consumption; (2) a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, (3) chewing gum, and (4) components of any such article.

Filthy. ~~The term "filthy" shall be deemed to apply to food not securely protected from flies, dust, dirt, and as far as be necessary by all reasonable means, from all foreign or injurious contaminations.~~

Hair Restraints shall mean a hat, hair covering or net, beard restraint, or clothing that covers body hair and is designed and worn to effectively keep hair from contacted exposed food, equipment, utensils, linens, or single-use and single-service articles. This requirement does not apply to food employees, such as counter staff, who only serve beverages and wrapped or packaged foods, hostesses, and wait staff, if they present a minimal risk of contaminating exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles, whose hair is secured.

Health officer [~~The term "health officer"~~] shall mean any person in the code enforcement/health office, or other person designated by the city manager, assigned to inspect food establishments, educate food establishment employees and food employees on local and state statutory requirements for health and safety in food service, and enforce all local and state health and safety laws as permitted by law.

Itinerant food establishment. ~~The term "itinerant food establishment" shall mean a restaurant opening for a temporary period in connection with a fair, carnival, public exhibition, or other similar gathering.~~

Imminent health hazard shall mean a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operations to prevent injury based on the number of potential injuries and the nature, severity, and duration of the anticipated injury; including but not limited too a complete rack of refrigeration, sewage back-up into the establishment, ~~pr an inspection score less than fifty (50).~~

Misbranded-food [~~A food~~] shall **mean** be deemed misbranded if:

- (i) Its labeling is false or misleading in any particular;
- (ii) It is offered for sale under the name of another food;

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Commented [DB6]: TFER 2015

Commented [DB7]: Term not noted in Chapter

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- (iii) It is an imitation of another food, unless its label bears the word "imitation" in type of uniform size and prominence and immediately thereafter the name of the food imitated; and except in cases of mixture and compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not an imitation of or offered for sale under the distinctive name of another article if the name is accompanied on the same label or brand with a statement of the place where said article has been manufactured or produced. No one administering this chapter may constitute oleomargarine as an imitation of butter;
- (iv) The container is so made, formed, or filled as to be misleading;
- (v) It is in package form without a label containing: (a) the common name of the food, (b) the name and place of business of the manufacturer, packer, or distributor; (c) an accurate statement of the quantity of the content in terms of weight, measure, or numerical count; and (d) the name of the food source for each major food allergen contained in the food unless the food source is already part of the common name; ~~that under clause (b) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the state commissioner of health.~~
- (vi) If any word, statement, or other information required by or under authority of this chapter of state law to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
- (vii) If it purports to be or is represented as food for which a definition and standard of identity has been prescribed by state regulations, unless, (a) it conforms to such definition and standard, and (b) its label bears the name of the food specified in the definition and standard, and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such foods;
- (viii) If it purports to be or is represented as: (a) A food for which a standard of quality has been prescribed by state regulations, and its quality falls below such standard unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard; or (b) A food for which standard or standards of fill of container have been prescribed by state regulations, and it falls below the standard of fill container applicable thereto, unless it labels bears, in such manner and form as such regulations specify, a statement that it falls below such standard;
- (ix) If it is not subject to the provisions above, unless it bears labeling clearly giving: (a) the common or usual name in the food, if any there be; and (b) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such may be designated as spices flavorings, and colorings, without naming each; provided that, to the extent that compliance with the requirements of clause (b) of this subsection is impractical or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the state commissioner of health; provided further that the requirements above shall not apply to any bottled carbonated drinks or soft drinks and, provided further, that clause (b) of this subsection shall not apply to any bottled carbonated drinks or soft drinks or the dispensing of carbonated soft drinks in single service cups. Nothing in this chapter shall be construed as requiring proprietors or manufacturers of proprietary foods which contain no unwholesome added ingredients to disclose their trade formulas except insofar as the provisions of the law require to secure freedom of adulteration or misbranding;

Commented [DB9]: TFER 2015

- (x) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral and other dietary properties as the state commissioner of health determines to be, and by regulations prescribed, as necessary in order to inform purchasers as to its value for such uses; **or**
- (xii) If it bears or contains any artificial flavorings, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided that, to the extent that compliance with the requirements of this subsection is impracticable, exemptions shall be established by regulations promulgated by the state commissioner of health. The provisions of this subsection and subsections (vii) and (ix) with respect to artificial coloring are not to apply in the case of butter, cheese, and ice cream.

Nonprofit organization/establishment ~~[-Means-]~~ shall mean an organization whose operations is not conducted or maintained for the purpose of making a profit, and from which its shareholders or trustees do not benefit financially ~~[an incorporated organization which exists for educational or charitable reasons, and from which its shareholders or trustees do not benefit financially.]~~. Nonprofit status must be verified by submission of supporting documentation, such as an IRS form 501c.

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Private water system shall mean a drinking water system that is not connected to a public water system and is not regulated by the Texas Commission on Environmental Quality, including private wells. Such systems have additional requirements, including, but not limited to, water sampling and testing every six months. Upon request, proof of testing may be required and documents submitted to the regulatory authority.

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Regulatory authority ~~[-Means-]~~ shall mean the City of Manvel, Texas.

Temporary food establishment ~~[-Means-]~~ shall mean a food establishment that operates for a period of no more than ten ~~(10)~~ consecutive days in conjunction with a single event or celebration. This may include a stand or a booth.

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Restaurant ~~[-The term "restaurant"]~~ shall mean ~~[include]~~ restaurant, coffee shop, cafeteria, short-order café, luncheonette, tavern, sandwich shop, sandwich stand, soda fountain, hospitals, institutions, private, public and parochial school lunchrooms, private and semi-private clubs, stadium concession stand, and all other food or beverage establishments, as well as other kitchens or other places in which food or drink is prepared for serving or for sale elsewhere.

State law definitions shall mean any term used in this chapter and not specifically defined herein shall have the meaning ascribed to it in the *Texas Food, Drug and Cosmetic Act*, V.T.C.A., Health and Safety Code, Ch. 431.

Time/Temperature Controlled for Safety (TCS) Food shall mean a food that requires time/temperature controlled for safety to limit pathogenic microorganism growth or toxin formation.

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Utensils ~~[-The term "utensil"]~~ shall mean and include any kitchenware, tableware, glassware, cutlery, vessels, containers, or other equipment with which food or drink comes in contact during storage, preparation, serving, eating, or drinking.

Sec 33-2. State regulations adopted.

- (a) The city adopts by reference ~~[the most current version of]~~ the *Texas Food Establishment Rules* **2015** ~~[promulgated by the Texas Department of State Health Services as set forth in 25 Tex. Admin. Code, Ch. 228, subchapters A—J, or successor statute].~~ The *Texas Food Establishment Rules* **2015** shall be considered incorporated herein by reference for all purposes.

Commented [DB14]: Most current version would be the 2022 version, which removed the "score" grading system.

Commented [DB15]: 2015 TFER has a grading system

- (b) From and after enactment of this chapter, the *Texas Food Establishment Rules 2015* shall govern the regulation of food and food establishments in the city in addition to any other requirements set forth in this chapter and other applicable laws and regulations. For purposes of this chapter, the words, terms and phrases set forth in the *Texas Food Establishment Rules 2015* as definitions shall have the meanings and interpretations set forth therein.
- (c) ~~Any subsequent revisions or changes to the *Texas Food Establishment Rules* shall automatically become a part of this chapter, unless council action is required by law.~~
- (c) Except as where may be specifically stated herein, this chapter shall be enforced by the city code enforcement officer/health officer, or such other personnel designated by the city manager.
- (d) A copy of the *Texas Food Establishment Rules 2015* shall be on file in the office of the city secretary.

Commented [DB16]: This would mean the 2022 TFER, which would remove the grading system

Sec. 33-3. Local amendments and definitions.

The *Texas Food Establishment Rules 2015* adopted in section 33-1 are hereby amended as follows:

- (1) The following provisions are added:
- 228.2(153) Code enforcement/health officer - A city "code enforcement officer" or "health officer" shall mean any person in the health office/code enforcement office, or other person designated by the city manager, assigned to inspect food establishments, educate food establishment employees and food employees on local and state statutory requirements for health and safety in food service, and enforce all local and state health and safety laws as permitted by law.
 - 228.2(154) Reconstituted - Food created or prepared by recombining dehydrated food products with water or other liquids.
 - 228.2(155) Sanitation - Effective bactericidal treatment process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on tableware, utensils, ~~and~~ equipment, ~~and alike.~~
 - 228.186(o)(2)(F) - Service Animals - In areas that are not used for food preparation or storage, a food establishment may, at the owner or manager's discretion, or where required by law, allow patrons to bring service animals on the premises. Notices stating where a patron is allowed to bring service animals on the premises shall be posted in all areas where the service animals are to be allowed by the food establishment.
- (2) The following provisions are adopted in place of the identically numbered provisions in the *Texas Food Establishment Rules 2015*:
- 228.2(57) Food establishment - Food establishment means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, ~~whether for charge or not,~~ as follows:
 1. A restaurant, retail food store, ~~satellite or catered feeding location, catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people,~~ market, ~~vending machine location,~~ self-service food market, conveyance used to transport people, institution, ~~or food bank.~~ ~~This includes any establishment where prepackaged Time/Temperature Control for Safety (TCS) food and food products are offered to the ultimate consumer and intended for off premise consumption;~~

Commented [DB17]: Broadens the definition to include all food contact surfaces.

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2. An establishment that relinquishes possession of food to a consumer directly, or indirectly through a delivery service, such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers; and
3. Includes an element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location, unless the vending or feeding location is permitted by the regulatory authority ~~[and an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises.]~~
4. ~~An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises regardless if there is a charge for the food.~~
5. ~~[Food establishment does not include a produce stand that only offers whole, uncut fresh fruits and vegetables, a food processing plant, a cottage food industry, an area where cottage food is prepared, sold, or offered for human consumption, a bed and breakfast limited facility as defined in this chapter, a food bank, or a private home that receives catered or home-delivered food.] Food establishment does not include~~
 - a. ~~An establishment that offers only prepackaged foods that are not TCS foods;~~
 - b. A produce stand that only offers whole, uncut fresh fruits and vegetables;
 - c. A food processing plant;
 - d. A cottage food production operation; or
 - e. A private home that receives catered or home-delivered food.
- b. ~~228.2(59) Food Protection Manager Certification- A document obtained by a person in charge who demonstrates knowledge by being a food protection manager that is certified by a food protection manager certification program that is evaluated and listed by a Conference for Food Protection-recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of food Protection Manager Certification Programs. Food establishments having multiple preparation areas or at such distance that a single individual may not effectively supervise activities in each, must have a person in charge who has a valid food service manager's certification located in each area.~~
- c. 228.2(85) Mobile Food Unit (MFU) - A vehicle mounted, self or otherwise propelled, self-contained food service operation, designed to be readily movable (including, but not limited to, trailers and ~~[push carts]~~ **food hand cart**) and used to store, prepare, display, serve, or sell food. Mobile units must completely retain their mobility at all times. A Mobile Food Unit does not mean a stand or a booth. A Mobile Food Unit operating in the City must have onsite at least one food employee who possesses a food manager certification.
- d. 228.2(143) Temporary food establishment - A food establishment that operates a stand or booth for a period of no more than ten (10) consecutive days in conjunction with a single event or celebration. ~~A temporary food establishment operating in the City must have onsite at least one food employee who possesses a food manager certification.~~
- e. ~~228.42(a)(2) is amended by changing "closed beverage container" to "screw top lid" and adding a requirement that management designate a specific location to store all approved employee beverage containers.~~
- (3) ~~Additional definitions. Additionally, the following words, terms and phrases shall have the meanings set forth below except where the context clearly indicates a different meaning:~~

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Sec. 33-3. Application of chapter.

- (a) This chapter shall apply to all areas within the corporate limits of the city.
- (b) Persons or organizations whose food services are regulated and regularly inspected by another federal or state governmental entity are required to comply with this chapter.
- (c) If there is a conflict between a provision of this chapter and another provision of the City Code or state law, the more stringent provision shall apply.

Sec. 33-4. Enforcement.

Except as where may be specifically stated herein, this chapter shall be enforced by the City code enforcement officer/health officer, or such other personnel designated by the city manager.

Sec. 33-5. Penalty.

- (a) All provisions of this chapter shall be applicable to all food establishments, unless otherwise required by law.
- (b) No food establishment shall be operated within the city unless it conforms with the provisions of this chapter.
- (c) Any person or establishment deemed in violation of this chapter may be subject to permit suspension or revocation.
- (d) Any person who intentionally, knowingly, willfully, or with criminal negligence violates any provision of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not exceeding \$2,000.00. Each day of violation of this chapter shall constitute a separate offense. Prosecution in municipal court shall be in addition to other remedies provided in this chapter, by law, or in equity.
- (e) A license holder shall ensure that the food establishment is in full compliance with this chapter at all times.
- (f) The person in charge shall ensure that the food establishment is operated in full compliance with this chapter and that all food is stored, prepared, displayed and served in accordance with the provisions of this chapter.
- (g) All mobile food unit and temporary food establishment vendors must comply with the requirements of the City Code, chapter 35, article X, as amended from time to time.

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Sec. 33-6. Injunction.

- (a) If it appears that a person has violated, is violating, or threatens to violate this chapter, the city may institute a civil suit in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation.
- (b) The city may petition a district court for a temporary restraining order to immediately halt a violation or other action creating an emergency condition if it appears that:
 - (1) A person is violating or threatening to violate this chapter; and
 - (2) The violation or threatened violation creates an immediate threat to the health and safety of the public.

Secs. 33-7—33-9. Reserved.

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(Supp. No. 28)

ARTICLE II. HEALTH PERMIT

Sec. 33-10. Required.

- (a) **Health Permit.** No person shall operate a food establishment without possessing a valid health permit issued by the City through the permits department. Such permit be known as a "health [food-service] permit", a "temporary food [service] establishment health permit", or a "mobile food unit health vendor permit", hereinafter referred to collectively as "permit", "permits", or "health [food permit]". Only a person who complies with the requirements of this chapter shall be entitled to receive or retain such a permit. **All health permits issued by the City remain the property of the City.**
- (b) **The non-refundable annual fee for a food establishment health permit, other than that issued to a nonprofit organization, daycare, or institution, will be based on the square footage of the establishment.**
- (c) Permits are not transferable from one person or place to another person or place. A valid permit shall be posted in view of the public in every food establishment, temporary food establishment, **and mobile food unit.**
- (d) Each and every food establishment, whether under one roof or not, **operating separate POS systems, or subletting a location/area from lessee,** shall be considered a separate establishment, and a permit must be obtained for each establishment. Each such establishment is subject to the requirements in this chapter.
- (e) **Application.** **All applications must be completely and accurately filled out, and all requirement documentation must be submitted. Any fraudulent information may cause revocation of any and all issued health permits.**
- (1) Any person desiring to obtain a health permit shall make written application for such permit on forms provided at the city's permits department or on the city's website. Such application shall include the applicant's full name and mailing address; the location of proposed food establishment; and the signature of the applicant or applicants.
- (2) Any person desiring to obtain a temporary food establishment health permit shall make written application for such permit, at least three (3) days before prior to the beginning of the temporary food establishment operation, on forms provided at the city's permits department or on the city's website. In addition to the information listed in subsection (1) above, such application shall include **the inclusive dates of the proposed operations; the name, address and telephone number of the owner or owners of the property where the temporary food service establishment is to be located; and a statement signed by the owner(s) of the property or his/her authorized agent, stating that arrangements have been made for the proper disposal of all rubbish, trash, garbage, and for maintaining the property free from litter and nuisances during the total period of operation up to and including any cleanup time required to remove all rubbish, trash, garbage, and litter resulting from the food service. A description of such arrangements must be included. A permit for temporary food establishment may be issued for a period of time not to exceed 14 consecutive days.**
- a. The inclusive dates of the proposed operations;
- b. The name, address, and telephone number of the owner or owners of the property where the temporary food service establishment is to be located; and
- c. A statement signed by the owner(s) of the property or his/her authorized agent, stating that arrangements have been made for the proper disposal of all rubbish, trash, garbage, and for

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maintaining the property free from litter and nuisances during the total period of operation up to and including any cleanup time required to remove all rubbish, trash, garbage, and litter resulting from the food service. A description of such arrangements must be included.

- (4) Any person desiring to obtain a mobile food unit health permit shall make written application for such permit on forms provided at the city's permits department or on the city's website. Should an individual or entity own more than one mobile food unit, a health permit must be obtained to each individual mobile food unit. In addition to the information listed in subsection (1) above, such application shall include

- a. The physical address where the mobile food unit is stationed when not in use;
- b. The business name and address of the central preparation facility or other fixed food service establishment where the potentially hazardous food supplies are obtained;
- c. The address of the servicing area; and
- d. A description of the mobile food unit which includes the manufacturer's make, model, serial or VIN number, and the vehicle's state registration number.

- (5) A permit holder must notify the City of any changes to the information submitted in an application for the permit, including but not limited to, change of address or telephone number. The notification must be given to the City in writing within ten (10) days of the change.

- (f) The permit department shall issue the appropriate permit to the applicant if inspection reveals that the proposed food establishment complies with the requirements of this chapter. All temporary food establishments and mobile food unit vendors must comply with the requirements of the City Code, Chapter 35, article X.

Sec. 33-11. Duration.

Permits shall be issued annually and shall extend from the date of issuance or renewal, [as applicable] until June 30th each year. All Health Permits issued by the city expire on June 30th each year. [Annual renewal applications must be submitted at least 30 days prior to the expiration date of the permit. A permit shall be issued only if the establishment is in complete compliance with this chapter.] Annual renewal applications must be submitted at least fourteen (14) days prior to the expiration date of the permit.

Temporary food establishment health permits shall extend from the first date of service until ten (10) days after the first date of service. All temporary food vendor permit applications must be submitted at least three (3) days before the first event day. Applications received after less than three (3) days before the first event day may be imposed with additional fees.

Mobile food unit health permits shall be issued annually and shall extend from the date of issuance or renewal, until the first day of the issuance month the following year. Annual renewal applications must be submitted at least fourteen (14) days prior to the expiration date of the permit.

Sec. 33-12. Fees.

- (a) Before any permit shall be issued under this chapter, the applicant shall pay the applicable fees set forth in the latest fee schedule resolution adopted by the city. All food establishments shall be obligated to pay an annual permit fee as specified in the latest fee schedule resolution adopted by the city.
- (b) The re-inspection fee set forth in the latest fee schedule resolution adopted by the city shall apply in cases where re-inspection is deemed necessary by the City's code enforcement officer/health officer.

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- (c) Health permit renewal applications received after the expiration date of issued permit fee shall include a late fee as set for in the latest fee schedule resolution adopted by the city.

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Sec. 33-13. Refunds/proration.

Permit fees are not refundable and shall not be prorated.

Sec. 33-14. Suspension.

- (a) The ~~city's code enforcement/ health officer may suspend any~~ City, ~~without warning, may suspend any~~ health permit to operate a food establishment, temporary food establishment, and/or mobile food unit, if ~~the operation of the establishment does not comply with the requirements of this chapter, the permit holder~~ does not comply with the requirements of this chapter, ~~or if the operation of the establishment otherwise constitutes a substantial health hazard or~~ immediate threat to the health and safety of the public. Suspension is effective upon written notice ~~and issuance~~, and service operations shall immediately cease.
- (b) Whenever a permit is suspended, the city shall notify the permit holder or the person in charge of the food establishment in writing of the reason(s) for which the permit is suspended and inform them of the opportunity for a hearing before the city municipal court. If the permit holder requests a hearing, they shall file their written request for a hearing with the city secretary within ten ~~(10)~~ days following service of such notice of suspension. If a request for hearing is filed, a hearing shall be scheduled within ten days of the City's receipt of such request. If no request for hearing is filed within the ten-day period, the suspension of the permit is sustained. The city's code enforcement ~~officer/~~ health officer may end the suspension at any time if reasons for suspension no longer exist.
- (c) Whenever a food service license is suspended, it may be physically removed from the premises by the code enforcement ~~officer/~~ health officer and retained at the office of the ~~code enforcement officer/~~ health officer until the suspension has been lifted or modified.
- (d) Whenever a mobile food unit license is suspended, it shall be physically removed from the mobile food unit in violation by the code enforcement ~~officer/~~ health officer.
- (e) All hearings shall be held in the municipal court and presided over by a municipal court judge. All hearings shall be, as much as practicable, conducted pursuant to the Texas Rules of Civil Procedure.
- (f) If the permit holder fails to appear at the hearing at the time, place, and date specified, the city shall present sufficient evidence to establish a prima facie case showing violation of this chapter or conditions constituting a hazard to public health which formed the basis of the suspension of the license.
- (g) If the municipal court finds that the food establishment was, in fact, in violation of this chapter or that it constituted a hazard to public health, the court shall make written findings of fact and shall order the permit suspended until all violations of this chapter are corrected and any conditions constituting a hazard to public health are eliminated. A copy of the findings and order of the court shall be either given to the responsible party upon conclusion of the hearing, or sent by certified mail, return receipt requested, to the permit holder. If the municipal court finds that the public interest will be adequately protected by a warning or other penalty authorized under this chapter, it may reinstate the permit.
- (h) Whenever the reasons for a suspension no longer exist, the permit holder or the person in charge shall notify the permits department that the conditions under which the permit was suspended have been corrected and that an inspection is requested. Upon receipt of request and payment of any required re-inspection fee, such inspection shall be conducted as soon as possible and in no event, no later than three ~~(3)~~ regular working days after the receipt of the request for inspection.

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(i) ~~Revocation/suspension of mobile food vendor permits shall be in accordance with section 35-317 of the City Code.~~

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(Ord. No. 2020-O-25, § 2, 9-8-2020)

Sec. 33-15. Revocation.

The city may revoke a permit for serious or repeated violation(s) of any of the requirements of this chapter or for interference with the health official/code enforcement officer in the performance of his/her duties. Prior to revocation, the city shall notify the permit holder or the person in charge of the food establishment in writing of the reason(s) for which the permit is subject to revocation, and that the permit shall be revoked at the end of the ten (10) calendar days following service of such notice unless a written request for a hearing is filed with the City secretary within ten (10) days following service of such notice of revocation. If a request for hearing is filed, a hearing shall be scheduled within thirty (30) days of the city's receipt of such request. If no request for hearing is filed within the ten (10) day period, the revocation of the permit becomes final.

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(Ord. No. 2020-O-25, § 2, 9-8-2020)

Sec. 33-16. Service of notice.

A notice provided for in this article is properly served when it is delivered to the permit holder or the person in charge of the establishment or when it is sent by registered or certified mail, return receipt requested, to the last known address of the permit holder or when it is delivered by the city in person to the last known address of the permit holder.

(Ord. No. 2020-O-25, § 2, 9-8-2020)

Sec. 33-17. Hearings.

The hearings provided for in this article shall be held in the municipal court and presided over by a municipal court judge. Based upon the recorded evidence of such hearing, the municipal court judge shall make a final finding and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder, and a copy shall be filed with the city secretary.

(Ord. No. 2020-O-25, § 2, 9-8-2020)

Sec. 33-18. Application for a new permit after revocation.

The permit holder that has been revoked must wait 180 days after the final date of the revocation decision before making written application for a new permit.

(Ord. No. 2020-O-25, § 2, 9-8-2020)

Secs. 33-19—33-30. Reserved.

ARTICLE III. INSPECTIONS

Sec. 33-31. Access.

Agents of the city, after proper identification, shall be permitted to enter any food service establishment at any reasonable time for the purpose of making inspections to determine compliance with this article. The agents shall be permitted to examine the records of the establishments to obtain information pertaining to food and supplies purchased, received or used, or to persons employed.

Sec. 33-32. Frequency.

- (a) ~~When an initial health permit is issued, prompted by a new business or commercial change of occupant, an inspection that produces a graded score will be conducted within sixty (60) days of service launch.~~
- (b) An inspection of a food service establishment should be performed on each food establishment within the city at least every six (6) months, and additional inspections shall be performed as often as necessary for the enforcement of this chapter. Any establishment scoring 75 or below on an inspection will automatically receive a follow-up inspection within ten (10) days. A re-inspection fee must be paid prior to follow up inspection. Failure to pay re-inspection fee or a second score of 75 or below on an inspection shall result in an order to immediately cease all food service operations. Any person, firm, or food establishment proven to have failed to immediately cease all food service operations upon an order from the city shall be deemed guilty of a misdemeanor and shall, upon conviction by a court of competent jurisdiction, be assessed fines or other punishment as provided by this Code.
- (c) If a food establishment is being inspected for the first time by the City code enforcement officer/health officer, the following additional requirements apply:
- (1) For a food establishment located at permanent premises, a code enforcement officer/health officer will only conduct an inspection to obtain a food service permit after the food establishment has passed final inspections by the building official and the fire marshal, or their respective designees.
 - (2) A food establishment located at permanent premises may not store any food defined as time/temperature control for safety food (TCS) at the premises until after the code enforcement officer/health officer has completed his/her inspection and the food establishment has passed said inspection. If a food establishment is found to have TCS food on the premises at the time of an initial health inspection, the code enforcement officer/health officer may order the TCS food to be disposed of properly if it is found to have been kept in unsafe conditions.
- (d) Whenever an inspection of a food establishment is conducted, the findings shall be recorded in an inspection report, and a copy of each inspection report with number score and corresponding letter grade shall be provided to the food service manager or other person in charge of the establishment. The rating score of the establishment shall be the total of the weighted point values for all violations, subtracted from 100. ~~It is the responsibility of the food service manager to post the letter grade.~~ The code enforcement officer/health officer shall post the grade/score placard corresponding to the food establishment's inspection report upon an inside wall or window near the main public entrance of the establishment in a location readily visible to consumers, and such grade/score placard shall not be defaced or removed by any person except the code enforcement officer/health officer. Any person, firm, or corporation who fails to properly post the inspection report or the corresponding letter/score placard, or removes, defaces, or alters the inspection report or the corresponding letter/score placard, as required shall be deemed guilty of a misdemeanor and shall, upon conviction by a court of competent jurisdiction, be assessed fines or other punishment as provided by this Code.
- (e) In the case of temporary food service establishments, all violations shall be corrected immediately. If violations are not corrected, the code enforcement officer/health officer shall immediately suspend the ~~license~~ health permit. Any person, firm, or establishment who is found to have failed to immediately cease

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operations upon suspension of temporary ~~[food service license]~~ **health permit** shall be deemed guilty of a misdemeanor and shall, upon conviction by a court of competent jurisdiction, be assessed fines or other punishment as provided by this Code.

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(Ord. No. 2020-O-25, § 2, 9-8-2020)

Sec. 33-33. Correction of violations.

The inspection form shall specify a reasonable period of time to correct the violations and such violations must be corrected within the specified period; provided, however, that:

- (1) If an imminent health hazard exists the establishment, including a mobile food unit, shall immediately cease food service operations and operations shall not be resumed until authorized by the city; and
- (2) All violations at temporary food establishments shall result in cessation of temporary food service operations.
- (3) The establishment or mobile food unit shall not resume operations until such time as a re-inspection determines that the condition(s) responsible for the requirement to cease operations no longer exists. The city shall offer to re-inspect the establishment within a reasonable time.

(Ord. No. 2020-O-25, § 2, 9-8-2020)

Sec. 33-35. Power Failure.

- (1) Power failure greater than thirty (30) minutes and less than four (4) hours. If there is a power failure, mechanical failure, or other condition that results in an internal machine thermometer that cannot maintain food temperatures, and such condition continues for a length of time greater than thirty (30) minutes but less than four (4) hours, the following steps must be taken:
 - a. The food establishment must be closed during the power failure;
 - b. A log must be kept of the time that the power failure initially occurred, the temperature of the food at that time, and the time and temperature of the TCS food at one (1) hour intervals until the power is restored;
 - c. The regulatory authority must be notified immediately of the power failure greater than three (3) hours; and
 - d. Documentation must be provided to the regulatory authority immediately upon request.
- (2) Power failure greater than four (4) hours. (In addition to those above in subsection 1) If there is a power failure, mechanical failure, or other condition that results in an internal machine thermometer that cannot maintain food temperatures, and such condition continues for a length of time greater than four (4) hours, the following steps must be taken:
 - a. All TCS food must be disposed of. Documentation of disposal must be provided to the regulatory authority immediately upon request.
 - b. If required by the City, the food establishment may not re-open until an inspection has been conducted by the regulatory authority.

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Sec. 33-36. Examination, Detention, and Destruction of Food.

- a. The regulatory authority may examine and collect samples of food as often as necessary for the enforcement of this subchapter.
- b. The regulatory authority shall, upon written notice to the owner or person in charge, specifying the reasons therefor, place any food under detention which it has probable cause to believe is adulterated, misbranded, in violation of this chapter, or a hazard to public health. The City shall tag, label, or otherwise identify any food subject to the detention order. No food subject to a detention order shall be used, served or moved from the establishment. The regulatory authority shall allow storage of the detained food under conditions specified in the detention order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished. The detention order shall state that a request for hearing may be filed within ten (10) days and that if no hearing is requested the food shall be destroyed. A hearing shall be held if so requested and, on the basis of evidence produced at the hearing, the detention order may be vacated or the person in charge of the food may be directed by written order to destroy such food or to bring it into compliance with the provisions of this subchapter.
- c. Time temperature control for safety foods (TCS). Immediate destruction of TCS food shall be ordered and accomplished if:
 - a. The TCS food is in a container or package that does not bear a date or day, and is not properly labeled to show evidence that the TCS food is less than seven (7) days old;
 - b. The TCS food is at a temperature of greater than 5 degrees Celsius (41 degrees Fahrenheit) and less than a temperature of 57 degrees Celsius (135 degrees Fahrenheit);
 - c. When using time as a public health control, the TCS food exceeds the time that is four (4) hours past the point in time when the food is removed from temperature control; or
 - d. When the food is deemed a hazard by the code enforcement officer/health officer.

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ARTICLE IV. CONSTRUCTION, REMODELING AND CONVERSION

Sec. 33-51. Plans.

- (a) No construction, remodeling, or alteration of a permitted food establishment shall be conducted without any and all required permits.
 - (b) ~~Two sets~~ One (1) hard copy and an electric copy of properly prepared plans and specifications for each construction, remodeling, or alteration of a food establishment shall be submitted to the permit department prior to any on-site construction. The plans must be drawn to scale no smaller than one-eighth (1/8") inch and shall consist of a plot plan, floor plan, foundation plan, structural plan, plumbing plan, elevation plan, wall section, engineer's scale and survey (if required by applicable law), mechanical and electrical details, and health equipment detail with elevations, any of the City of Manvel standard details that apply, and the city's signature block on the first page.
 - (c) All food establishments shall have a minimum of a 500-gallon grease trap/interceptor.
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- (1) Under sink grease traps for all food establishment shall be strictly prohibited. The only exception is for MFU's.

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(2) Servicing of grease interceptors. Food service establishments must service grease interceptors quarterly. The regulatory authority may require that the food service establishment service the grease interceptors more frequently, if deemed necessary.

(3) Report of service. Each establishment may be required to provide the regulatory authority with a copy of the grease interceptors servicing manifest or invoice immediately after the grease interceptor has been serviced. The invoice shall contain the name and address of the food service establishment; the name and address of the licensed waste carrier; the name and address of the licensed disposal site; the signature of the operator of the establishment, the waste carrier and the disposal site; and the quantity and date of grease removal and disposal.

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(d) All food prep areas shall have smooth wall board. Such as FRP (fiberglass reinforced panels.). No rough or porous wall board will be allowed.

(Ord. No. 2020-O-25, § 2, 9-8-2020)

Sec. 33-52. Other code requirements.

A building permit shall be required for construction, alteration, remodeling or conversion of a food establishment in accordance with the International Building and Fire Codes and any and all codes adopted by the city. Any construction, alteration, remodeling, or conversion of a food establishment shall comply with all applicable federal and state laws and codes and regulations of the city. To the extent of a conflict between or among the provisions of this chapter and other codes or ordinances of the city, the more restrictive provision shall control.

(Ord. No. 2020-O-25, § 2, 9-8-2020)

Sec. 33-53. Ownership of food establishment.

(a) When an existing food establishment is purchased and the purchase does not include the property or the structure, but includes the rental or lease of space and/or equipment, the city requires that the person who operates the food establishment obtain a valid food establishment's permit. The person who applies for the food establishment's permit is considered, legally, to be the owner.

(b) A food establishment permit will become void upon closing of any sale of the establishment. A new owner must submit an application for change of occupancy and an annual food establishment permit within thirty (30) days of finalizing the sale, pass an inspection, and make a payment for the annual food establishment permit prior to operation. All food establishment permits remain the property of the city.

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(c) When a food establishment sublets or rents a space or section of the establishment to a secondary party and that secondary party operated the space conjointly or separately from the first establishment, the secondary party will be considered a separate entity and must obtain a health permit separate from the first establishment.

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(c) The person who is registered on the food establishment's permit is the responsible party for the property, premises, structure and complete operating services. The operator of the food establishment is the ultimate responsible party, and the conditions under which the food establishment was leased or rented does not release the operator from the requirements of this article.

(d) A new owner may continue to operate a food establishment without interruption from the city when the establishment is in complete compliance with this chapter. Total compliance is the basis for issuing the food establishment's permit, which must be obtained prior to opening the establishment for business. An inspection of the premises and operations can demonstrate the extent to which the food

establishment is in compliance. Such inspection and issuance of a new permit must be conducted within 30 days of purchase. Upon normal conditions, depending on the condition of the food establishment, many violations can be corrected within such a short period of time that an interruption of food services is unnecessary and not required.

- (d) Depending on the wear and tear (depreciation) on the establishment, the building and equipment may already be close to compliance, and it is the responsibility of the new owner to schedule an inspection from the city to determine what is required to meet current codes.

Appendix A Food Establishments Grade Placard

(a) GRADE/SCORE PLACARDS

- (1) Each food establishment inspection begins with 100 points. As a code enforcement officer/health officer conducts an inspection, the appropriate sub-categories in the Food Establishment Inspection Report of the Texas Department of State Health Services (*Texas Food Establishment Rules 2015*), will be marked. The sub-categories are assigned a specific point value based on the associated public health risk of the violation. Point value is deducted from the 100 points if violations are observed by the officer conducting the inspection. (Refer to the *Texas Food Establishment Rules 2015* for a more detailed explanation of these sections.) An example provided in the table below.

Beginning of the Inspection	100 points
Total points deducted	-
Remaining points	Grade or Score

- (2) A grade placard will be issued to each food establishment with a score of seventy-six to one hundred (76 to 100) at the end of all routine inspections. The placard issued will be based upon the score received on the Retail Food Establishment Inspection Report. The grading is calculated as follows:

[Points:]

Points:	Grade:	Description:
92—100	A	Generally superior in food handling practices and overall food facility maintenance.
91—84	B	Generally good in food handling practices and overall food facility maintenance.
83—76	C	Generally acceptable in food handling practices and overall general food facility maintenance.
0—75	Score	Poor in food handling practices and overall general food facility maintenance.

- (3) A facility receiving a score of seventy-five (75) or below will be issued a score ~~[card]~~ placard and not a grade ~~[card]~~ placard. The score ~~[card]~~ placard will indicate the actual score received.
- (4) The grade or score placard must remain posted until the next routine inspection, at which time the code enforcement officer/health officer shall ~~[issue]~~ post a new grade or score ~~[card]~~ placard to replace the previous document ~~[issued]~~. This replacement placard must be posted as described above.
- (5) All food establishments presenting a substantial hazard to public health may be subject to closure regardless of the score received on the inspection report.

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- PART II CODE OF ORDINANCES
Chapter 33 - FOOD AND FOOD HANDLERS
Appendix A Food Establishments Grade Placard

- (6) Any food establishment receiving a score of less than fifty (50) shall constitute a substantial hazard to public health and will be subject closure and revocation of the health permit.

Sec. 33-54. Owner-Initiated Inspection.

Within three (3) business days an inspection where graded score is issued, the owner of a food service establishment may apply for an owner-initiated inspection to be performed by the city. Such application shall be accompanied by payment of a fee in the amount specified in the latest fee schedule resolution adopted by the city. Such fee shall be in addition to any re-inspection fees associated with re-inspection necessitated by violations identified during the inspection process. Such owner-initiated inspection shall be conducted within thirty (30) calendars days or the request. After such owner-initiated inspection, the City will issue a new inspection graded score based on the owner-initiated inspection, and such placard shall be posted in accordance with this chapter. At least twelve (12) months must elapse between any owner-initiated inspections for each food establishment.

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MASTER COOPERATIVE PURCHASING AGREEMENT

This Master Cooperative Purchasing Agreement ("Agreement"), effective May 4, 2022 is made by and between the Sheriffs' Association of Texas, Inc. ("SAT"), a Texas non-profit corporation, and the City of Manvel ("End User"), a local government unit created under the laws of the State of Texas.

WITNESSETH

WHEREAS, SAT's Vehicle Procurement Program ("VPP") is a cooperative bid program where SAT solicits bids for vehicles to be purchased directly from vehicle vendors by units of local government or political subdivisions, including, but not limited to, municipalities and counties, local county boards of public instruction, and local public safety agencies or authorities; and

WHEREAS, the purpose of the VPP is to provide public procurement of quality goods to support effective and efficient government, ensuring the prudent use of public funds. This includes providing efficient delivery of products and services; obtaining best value through competition; offering fair and equitable competitive contracting opportunities for suppliers; and maintaining public confidence through ethical and transparent procurement practices; and

WHEREAS, SAT will serve as the "Contract Administrator" in the solicitation of bids process. The purpose of the solicitation for bids is to identify the most suitable manufacturer's authorized dealer for the purchase of vehicles on a "no trade-in basis;" and

WHEREAS, the SAT Contract Administrator will award the bid to the lowest and best responsive bidder by specification and by manufacturer. The award will be determined by the price of the bid, qualifications based on a dealer's facilities and financial resources, and demonstrated ability to perform the work in a satisfactory manner;

NOW, THEREFORE, SAT and the End User agree as follows:

1.0 **Responsibilities of the parties.**

- 1.1 The SAT will identify, solicit, and invite interested vehicle vendors, including but not limited to vehicle manufacturers, dealers and certified representatives, to submit bids for vehicles.
- 1.2 The SAT will develop and provide all necessary solicitation, bid, and contract award documents which will enable End User to purchase vehicles directly from vendors at a competitive price.
- 1.3 The SAT will consult with the End User as needed in order to facilitate End User's purchase of vehicle through the VPP.

- 1.4 The SAT will prepare “solicitation for bid” documents in order to obtain price commitments from manufacturers and dealers for the sale of vehicles to End User.
- 1.5 The End User agrees to be bound by the SAT Vehicle Procurement Program Solicitation for Bids and Contract Terms and Conditions, which is attached hereto and incorporated by reference as if fully set forth herein.
- 1.6 The End User agrees to provide to the SAT all information and assistance requested by the SAT that is reasonably necessary to remain in compliance with the Vehicle Procurement Program Solicitation for Bids and Contract Terms and Conditions.

2.0 **Compliance with Laws.** SAT and End User each represent and warrant to the other party that each has obtained all regulatory approvals and licenses necessary to enter into and perform under the terms and conditions of this Agreement. Further, the SAT and the End User represent and warrant to the other party that each is in compliance with all applicable laws and regulations and each party covenants to remain in compliance with such laws and regulations during the term of this Agreement.

3.0 **Term.** The term of this Agreement shall commence on the date set out above and shall continue in effect for one (1) year. Thereafter, this Agreement shall renew automatically for successive one (1) year terms ending on the initial anniversary date each year.

4.0 **Termination.** This Agreement may be terminated by either party at any time without cause by written notice to the other party given at least ninety (90) days in advance of the effective date of termination.

5.0 **Trademarks and Copyrights.** The parties reserve the right to the control and use of their names and all seals, symbols, trademarks, or service marks presently existing or later established. Neither party shall use the other party’s name, seals, symbols, trademarks, or service marks in advertising or promotional materials or otherwise without the prior written consent of such other party unless agreed to in this document. Any use by a party, without the approval of the other party, of the name, symbols, trademarks or service marks of such other party shall cease immediately upon the earlier of written notice of such other party or termination of this Agreement. Each party hereby grants the other party the right to use its name, address, and telephone number in connection with the other party's obligations hereunder.

6.0 **Notices.** Any notice required to be given pursuant to the terms of this Agreement shall be in writing and shall be sent by certified mail, return receipt requested, postage prepaid to the recipient at its respective address designated on the signature page of this Agreement.

7.0 **Independent Contractors.** The SAT and the End User are each acting as independent contractors under this Agreement and not as a partner, joint venture or employee of any other party to this Agreement. Each party shall be responsible for all taxes or similar charges payable with respect to any amounts received by such party under this Agreement. End User shall have no authority to bind SAT to any agreement or obligation. SAT shall have no authority to bind End User to any agreement or obligation. No party shall make any representations to the contrary.

The responsibilities of the SAT in administering the VPP are limited to those specified in the SAT Vehicle Procurement Program Solicitation for Bids and Contract Terms and Conditions, attached hereto and incorporated by reference as if fully set forth herein. This Agreement shall not create additional legal obligations for SAT beyond those specified in the attached Terms and Conditions.

8.0 **Amendments.** The parties reserve the right to amend or terminate this Agreement, as provided herein or as specified by amendment. All amendments or modifications to this Agreement must be mutually agreed to in writing by the End User and the SAT.

9.0 **Severability.** If any portion of this Agreement shall, for any reason, be invalid or unenforceable, such portion shall be ineffective only to the extent of any such invalidity or unenforceability, and the remaining portion or portions shall nevertheless be valid, enforceable, and of full force and effect.

10.0 **Waiver.** The waiver by either party of any breach of, or failure to insist upon strict compliance with, any provision of this Agreement or warranty or representation set forth herein, shall not be construed as a waiver of any prior or subsequent breach of or failure of strict compliance with the same or any other provision. The failure to exercise any right hereunder shall not operate as a waiver of such right. All rights and remedies provided for herein are cumulative.

11.0 **Entire Agreement.** This Agreement, including any exhibits or attachments hereto, contains all of the terms and conditions agreed upon by the parties regarding the subject matter of this Agreement and supersedes any prior agreements, promises, negotiations or representations, either oral or written, relating to the subject matter of this Agreement.

12.0 **Execution in Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute a single instrument.

13.0 **Assignment.** Neither party shall in any manner assign, subcontract, or otherwise delegate its rights, duties or obligations under this Agreement unless the other party approves of such assignment, subcontract, or delegation by prior written consent thereto.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

14.0 **Force Majeure.** The obligations of the SAT and the End User hereunder shall be excused during any period of delay or inability to perform caused by matters such as strikes, acts of God, shortages of raw materials or power, an inability to obtain products or services after the parties use their best efforts to provide such products or services, governmental action or compliance with governmental requirements, whether voluntary or pursuant to order, or any other matter which is beyond the reasonable efforts of the parties to control.

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement to be effective as of the day and year shown on the first page.

Sheriffs' Association of Texas, Inc.
1601 S. Interstate 35
Austin, Texas 78741-2503

City of Manvel
6615 Masters Road
Manvel, Texas 77578


SAT Authorized Signature

X



Sheriffs' Association of Texas
Vehicle Procurement Program

Frequently Asked Questions

Question – Who can participate?

Answer – Any local government agency located in the State of Texas can participate in the Sheriffs' Association of Texas Vehicle Procurement Program.

All local government agencies must follow their local governing purchasing ordinances.

Any local government agency located outside of the State of Texas cannot participate in the Sheriffs' Association of Texas (SAT) Vehicle Procurement Program.

Question - What kind of vehicles are offered on the SAT's Vehicle Procurement Program? And which vehicle manufacturers are participating?

Answer - The SAT Vehicle Procurement Program provides all Texas government agencies over 200 separate vehicle offerings.

The SAT Program provides government agencies with: pursuit rated and special service vehicles, SUVs, vans, trucks, chassis, administrative vehicles, and hybrid and electric vehicles.

The SAT Program has secured contracts with Stellantis (formerly Fiat Chrysler), Ford, and General Motors.

Question - Does a local government agency have to register or become a member of the Sheriffs' Association of Texas?

Answer - No. All government agencies can participate in the SAT's Vehicle Procurement Program without joining the Sheriffs' Association of Texas.

There is no registration with the Sheriffs' Association of Texas required and no registration fee required. A government agency does not need to be a member of the Sheriffs' Association of Texas to purchase off this Vehicle Procurement Program.

Question - Is there an administrative fee?

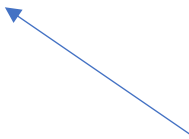
Answer - Yes. The Sheriffs' Association of Texas adds an administrative fee of \$350 per purchase order. This administrative fee is non-negotiable and will be added to all purchase orders using the SAT Vehicle Procurement Program.

This administrative fee is used by the Sheriffs' Association of Texas to continue to support all sheriffs' offices in the State of Texas with ongoing support, education, and necessary training.

Question - Can the Sheriffs' Association of Texas help with an Interlocal Purchasing Agreement (ILA) or Master Agreement?

Answer - Yes! Please contact Jason Bennett, Sheriffs' Association of Texas, at 919-459-8195 or at jason@txsheriffs.org to begin the process of having an ILA established for your county or city. All current agreements can be found on the SAT Procurement webpage.

PROCUREMENT	Procurement
Vehicle Procurement	Welcome to the Sheriffs' Association of Texas Procurement Program
ACTIVE: Bid 22-03-1008	
SAT Procurement FAQ	<i>If you have any questions about the association's Vehicle Procurement Program please contact Steve Westbrook at 512- 445-5888 or steve@txsheriffs.org or Jason Bennett at 919-459- 8195 or jason@txsheriffs.org.</i>
Manufacturer News	
Master Agreements	
2021-2022 Vendor Bid Documents	
Contract Award Agreements	
VendorLink Registration	
Vendor Sign-Up Form	
LE SUPPLY PRO/TIRES	



Question - How did the Sheriffs' Association of Texas choose the vehicle dealers on this Vehicle Procurement Program?

Answer - The Sheriffs' Association of Texas conducts a statewide solicitation for dealer participation. The SAT sends out over 500 solicitations statewide to vehicle dealerships asking to participate in the SAT's Vehicle Procurement Program.

The SAT works on developing, with the assistance of Texas vehicle dealers and vehicle manufacturers, vehicle specifications that are most popular with government agencies. Once these vehicle specifications are developed, the SAT goes out to bid on each vehicle.

After a comprehensive vetting process, the Sheriffs' Association of Texas' Vehicle Advisory Committee meets to review all submitted bids per vehicle specification. The Association awards contracts per vehicle to the most responsible and responsive bidding vehicle dealership with the lowest bid.

Question - How long are the SAT's Vehicle Procurement contracts effective?

Answer - All contracts are effective for 365 days. All contracts became effective on November 1, 2021 and will expire on October 31, 2022. At this time, the SAT will announce new contracts for the next contract year.

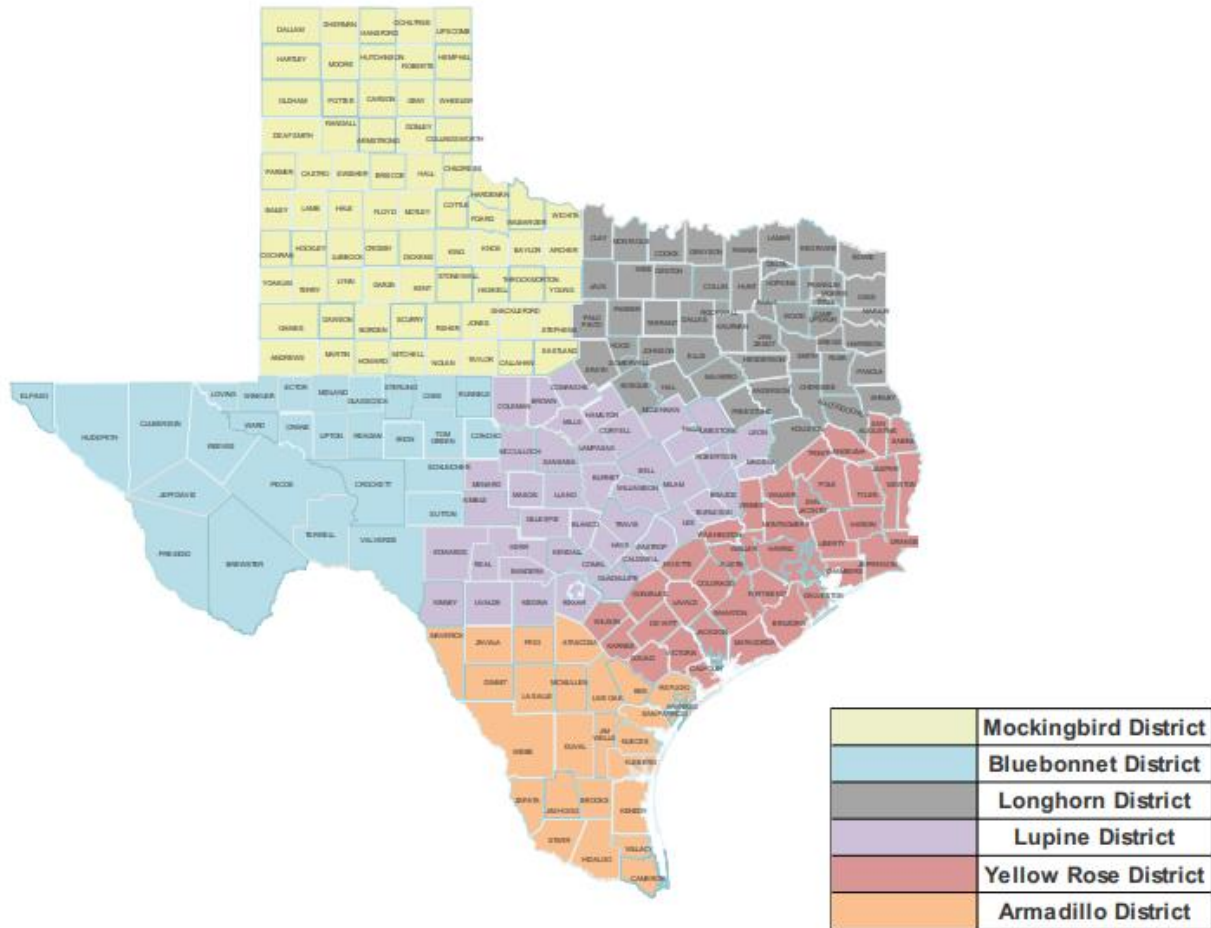
The SAT has worked with each vehicle manufacturer to ensure all SAT pricing is locked in for one full contract year, despite any changes in a vehicle's model year. There are few exceptions of price increases which the SAT will accept on a per vehicle basis.

Question - What is a Zone Delivery Map and are delivery charges included?

Answer - A Zone Delivery Map is a document created by the Sheriffs' Association of Texas to break the state up into separate delivery zones. This way, the SAT can ensure every county and city government agency can receive the best pricing which includes delivery to either your agency or the upfitter of your choice.

To find which delivery zone your county or city is in, please visit the Procurement tab located at www.sheriffstx.org. Each vehicle on the program will have 6 prices, each broken up by delivery zone. Please match up your delivery zone with the price for each vehicle.

If a government agency would like to pick up their vehicle from the dealership, there is a special delivery zone named as such on each contract award.



Question - What are the steps to use the Sheriffs' Association of Texas Vehicle Procurement Program?

Answer - Step 1 - Access the Sheriffs' Association of Texas' Vehicle Procurement Program's website. You can access the website by typing <https://www.sheriffstx.org/procurement> into your internet browser window.

On the SAT Vehicle Procurement website, you will find all vehicle contracts, all vehicles listed on our program, the price for each vehicle, an easy-to-use dealer directory, the SAT Delivery Zone Map, and much more. Everything you will need to procure a vehicle off the SAT Program is found on this website.

Step 2 - Find the vehicle(s) you are looking to purchase by using the SAT Procurement webpage and click on the type of vehicle description on the left side of the screen that best describes the type of vehicle you are looking to purchase. Next you will see a list of all available vehicles under that vehicle type broken up by manufacturer.

VEHICLE PROCUREMENT	Police Rated Vehicles
Chassis	FORD
Electric And Hybrid	Item: 96, Ford, Police Interceptor Utility AWD - 3.3 Gas Engine, K8A
Passenger Vehicles	Item: 97, Ford, Police Interceptor Utility AWD - Ecoboost, K8A
Police Rated Vehicles	Item: 98, Ford, Police Rated Responder - F-150 4X4, W1P
Special Service Vehicles	GENERAL MOTORS
SUVs	Item: 99, General Motors, Chevrolet Tahoe 1500 Full Size Police Rated Utility 2WD, CC10706/9C1
Trucks	STELLANTIS
Vans - Cargo And Passenger	- Item: 100, Stellantis, Dodge Charger Full Size Police Rated Sedan - AWD - 3.6L V6, LDDE48 - Item: 101, Stellantis, Dodge Charger Full Size Police Rated Sedan - RWD - 5.7 liter Hemi V8, LDDE48 - Item: 102, Stellantis, Dodge Durango Pursuit AWD, WDEE75

Next, click on the vehicle you are looking to purchase. You will then see all the information you need to begin your purchase such as the contracted dealer name, the price of the vehicle broken up by delivery zone, option information, and more.

Step 3 - Locate your delivery zone that corresponds to your county or city location. Once you have located the vehicle(s) you are looking to purchase, your delivery zone, you will see the name of the dealership that won that vehicle's contract.

Bid Award**Contract:** 22-03-1008, Vehicle Procurement**Group:** Chassis**Item:** 1, Ford, F-350 60 CA Chassis DRW XL 4x2 SD Crew Cab, W3G**Description:** Manufacturer's standard base model specifications and current model year for model/model number listed.

Model Upgrade/Downgrade: The mandatory minimum 6% discount only applies to factory options, not the model upgrades/downgrades. The following models are a model upgrade/downgrade to the base model for this line item. Please refer to the option sheet for pricing: Model W3H: F-350 60 CA Chassis DRW XL 4x4 SD Crew Cab

Zone	Rank	Vendor	Price	Percent (Taken off MSRP for options)	Build File	Options File
Longhorn	Primary	Caldwell Country Ford	\$32,252.00	6.00%	Build	Options
	Alternate	Randall Reed's Planet Ford 635	\$32,810.00	6.00%	Build	Options
Lupine	Primary	Caldwell Country Ford	\$32,252.00	6.00%	Build	Options
	Alternate	Randall Reed's Planet Ford 635	\$32,910.00	6.00%	Build	Options
Bluebonnet	Primary	Caldwell Country Ford	\$32,452.00	6.00%	Build	Options
	Alternate	Randall Reed's Planet Ford 635	\$33,060.00	6.00%	Build	Options
Mockingbird	Primary	Caldwell Country Ford	\$32,352.00	6.00%	Build	Options
	Alternate	Randall Reed's Planet Ford 635	\$33,010.67	6.00%	Build	Options
Yellow Rose	Primary	Randall Reed's Planet Ford 635	\$32,910.00	6.00%	Build	Options
Armadillo	Primary	Caldwell Country Ford	\$32,452.00	6.00%	Build	Options
	Alternate	Randall Reed's Planet Ford 635	\$33,010.00	6.00%	Build	Options
No Delivery	Primary	Sam Packs Five Star Ford, LTD	\$29,950.00	6.00%		
	Alternate	Caldwell Country Ford	\$32,152.00	6.00%	Build	Options
	Alternate	Randall Reed's Planet Ford 635	\$32,660.00	6.00%	Build	Options

Step 4 - Access the SAT's Dealer Directory by using the SAT Procurement webpage.

PROCUREMENT	ACTIVE: Bid 22-03-1008
Vehicle Procurement	Information Statewide to Dealers and Vehicle Manufacturers
ACTIVE: Bid 22-03-1008	SAT 2021-2022 Official Calendar
SAT Procurement FAQ	SAT 2021-2022 NAPC Advertisement
Manufacturer News	SAT 2021-2022 Invitation to Bid Announcement
Master Agreements	Dealer Directory
2021-2022 Vendor Bid Documents	Final Bid Award
Contract Award Agreements	
VendorLink Registration	
Vendor Sign-Up Form	
LE SUPPLY PRO/TIRES	

Step 5 - Contact the dealer for the vehicle(s) you wish to purchase and for your delivery zone to begin the purchasing process.

Step 6 - Issue your purchase order directly to the contracted dealer for the vehicle(s) and a copy to the Sheriffs' Association of Texas to kaylyn@txsheriffs.org.

Question - Can a government agency use this program if they choose leasing over purchasing the vehicles?

Answer - Yes! All leasing companies can use the Sheriffs' Association of Texas Vehicle Procurement Program. Please instruct the leasing company that you wish to use the Sheriffs' Association of Texas' Vehicle Procurement Program. As well, please instruct the leasing company to issue a copy of the purchase order to the SAT.

Question - How can a government agency learn more about the SAT's bidding processes, delivery instructions, requirements for the participating vehicle dealerships, and more on the SAT's Vehicle Procurement Program?

Answer - The Sheriffs' Association of Texas has an official Terms and Conditions document that regulates the Program. A copy of the Terms and Conditions can be found by accessing the SAT Procurement website.

VEHICLE PROCUREMENT
Chassis
Electric And Hybrid
Passenger Vehicles
Police Rated Vehicles
Special Service Vehicles
SUVs
Trucks
Vans - Cargo And Passenger

Vehicle Procurement

Welcome to the Sheriffs' Association of Texas Vehicle Procurement Program

The goal of the SAT's Vehicle Procurement Program is a cooperative bid program that achieves competitive pricing on police rated, special service, and administrative vehicles, trucks, and vans. The association's program helps to eliminate duplication of effort through the creation of one statewide bid that can be used by all 254 Sheriff's Offices in Texas, as well as units of local governments and political subdivisions including, but not limited to, county, local county board of public instruction, municipalities and/or police agencies.

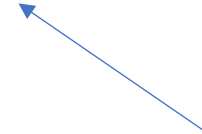
Our role is to act as an advocate for your agency during the purchasing process and to provide Texas with a program that delivers great financial savings along with quality customer service, while using a system that is easy to navigate.

If you have any questions about the association's Vehicle Procurement Program please contact Jason Bennett at 919-459-8195 or jason@txsheriffs.org.

Purchasing agencies: please don't forget to submit a copy of your purchase orders to Kaylyn Mitman at kaylyn@txsheriffs.org.

For supporting documents including all bid awards for each of our bids, please click on the links below.

- [SAT Vehicle Terms and Conditions](#)
- [SAT Zone Map](#)
- [Quarterly Report Calendar](#)



Question - Who does a county or city agency call when they need assistance or help? Who can we contact if we have issues with a contracted dealer?

Answer - Please contact either Jason Bennett, Sheriffs' Association of Texas, at 919-459-8195 or jason@txsheriffs.org or Kaylyn Mitman, Sheriffs' Association of Texas, at 919-459-6471 or kaylyn@txsheriffs.org.



SKYMARK DEVELOPMENT COMPANY, INC.

1616 Voss, Suite 618
Houston, Texas 77057
Phone: (713) 978-5900
Fax: (713) 978-5944

May 9, 2022

Mr. Kyle Jung
City Manager
City of Manvel
20025 Highway 6
Manvel, Texas, 77578

**RE: Extension of the Rodeo Palms PUD to allow for the Billboards to remain
until December 31st 2023**

Dear Mr. Jung,

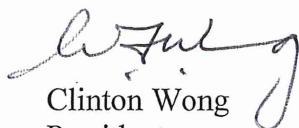
I would like to thank you for the meeting with me to discuss the two billboards located within the Rodeo Palms which over the past years have served both the City of Manvel and the Developer in accomplishing a successful development.

To follow up on our meeting please accept this as our request to be placed on the City Council Agenda to extend the PUD we have for Rodeo Palms to allow for the billboards to remain until December 31st, 2023. We would like to maintain the billboards as we are still developing within the Rodeo Palms Development. In addition, we have the Commercial Frontage of the Rodeo Palms Development which we plan to develop and would like the billboards to remain in order to market all aspects of the Commercial Development.

I am happy to address any questions or comments you may have regarding the extension of the Rodeo Palms PUD to allow the billboards to remain through 2023.

Thanks in advance for your help.

Sincerely,


Clinton Wong
President

Danielle Bryan

From: Danielle Bryan
Sent: Monday, March 21, 2022 3:55 PM
To: eungar@skymarkdevelopment.com; cw@skymarkdevelopment.com
Cc: Danielle Bryan
Subject: Billboard Signs: 19 San Simeon Dr & 4000 Rodeo Palms Pkwy CR 82
Attachments: Zoning- Sign 30 day NOV Letter.docx; IMG_2396.JPG; Zoning- Sign 30 day NOV Letter.docx; IMG_2403.JPG; 2003-O-07 Rodeo Palms PUD.pdf; Sign letter - PUD requirement (2-18-2020).pdf

Importance: High

Notice of Violation

March 21, 2022

NEW RODEO 288 LTD
ERIC UNGAR
CLINTON WONG
1616 S VOSS RD STE 618
HOUSTON, TEXAS 77057-2620

ID# 22-00106
ID# 22-00107

Re: Property located at 19 San Simeon Dr & 4000 Rodeo Palms Pkwy CR 82, Manvel, Brazoria County, Texas (the "Property").

To whom it may concern,

I have personally witnessed and determined that a prohibited sign as defined by Section 53-11 of the Code of Ordinances of the City of Manvel exists on the Property listed above. The Property contains a sign which is prohibited. Specifically, the violation consists of: unapproved/ PUD approval expired off-premises sign/ billboard.

Pursuant to Chapter 53, Section 11 "Prohibited Signs," of the City's Code of Ordinances, **this notice requires that you abate the above-described condition within thirty (30) days of your receipt of this letter.** Failure to comply with this letter will result in you being subject to the filing of criminal charges in the Municipal Court and the City taking action to abate the violation described herein. Additionally, if the City takes action to abate the violation, the City may place a lien against the Property for the costs incurred by the City. Any person who knowingly, intentionally, recklessly or with criminal negligence violates 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 of any such provision shall constitute a separate offense.

According to the real property records of Brazoria County, Texas, you own the real property described in this notice. If you no longer own the property, you must execute an affidavit stating that you no longer own the property and stating the name and last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to this office no later than the 20th day after the date you receive this notice. If you do not send the affidavit, it will be presumed that you own the property described in this notice, even if you do not.

We understand that you may not be aware of these ordinances and we ask for your assistance in maintaining this property. Your cooperation with these ordinances contributes to the positive appearance of your neighborhood and of

our community. Your cooperation in this matter is greatly appreciated. If we can be of further assistance to you, or can answer any questions regarding this matter, please contact this office at 281-489-0630 x3.

Sincerely,

Danielle Bryan

Danielle Bryan
Code Enforcement Officer
City of Manvel Code Enforcement
281-971-5435



Danielle Bryan

Code Enforcement

Office: 281-489-0630

Direct: 281-971-5435

danielle.bryan@cityofmanvel.com

20025 Hwy 6
Manvel, Tx 77578

<https://www.cityofmanvel.com/>

This City of Manvel e-mail message, including any attachments, is intended for the sole use of the individual(s) and entity(ies) to whom it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended addressee, nor authorized to receive for the intended addressee, you are hereby notified that you may not use, copy, disclose or distribute to anyone this e-mail message including any attachments, or any information contained in this e-mail message including any attachments. If you have received this e-mail message in error, please immediately notify the sender by reply e-mail and delete the message. Thank you very much.



CITY OF MANVEL
CODE ENFORCEMENT

20025 Hwy 6 Manvel, TX 77578 (281) 489-0630 Fax (281)-498-0634

Notice of Violation
March 21, 2022

NEW RODEO 288 LTD
ERIC UNGAR
CLINTON WONG
1616 S VOSS RD STE 618
HOUSTON, TEXAS 77057-2620

ID# 22-00106

Certified Letter: 7017 1000 0000 8949 5366

Re: Property located at 19 San Simeon Dr, Manvel, Brazoria County, Texas (the "Property").

To whom it may concern,

I have personally witnessed and determined that a prohibited sign as defined by Section 53-11 of the Code of Ordinances of the City of Manvel exists on the Property listed above. The Property contains a sign which is prohibited. Specifically, the violation consists of: unapproved/ PUD approval expired off-premises sign/ billboard.

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Sincerely,

Danielle Bryan

Danielle Bryan
Code Enforcement Officer
City of Manvel Code Enforcement
281-971-5435



CITY OF MANVEL CODE ENFORCEMENT

20025 Hwy 6 Manvel, TX 77578 (281) 489-0630 Fax (281)-498-0634





**CITY OF MANVEL
CODE ENFORCEMENT**

20025 Hwy 6 Manvel, TX 77578 (281) 489-0630 Fax (281)-498-0634



CITY OF MANVEL
CODE ENFORCEMENT

20025 Hwy 6 Manvel, TX 77578 (281) 489-0630 Fax (281)-498-0634

Notice of Violation

March 21, 2022

NEW RODEO 288 LTD
ERIC UNGAR
CLINTON WONG
1616 S VOSS RD STE 618
HOUSTON, TEXAS 77057-2620

ID# 22-00107

Certified Letter: 7017 1000 0000 8949 5366

Re: Property located at 4000 Rodeo Palms Pkwy CR 82, Manvel, Brazoria County, Texas (the "Property").

To whom it may concern,

I have personally witnessed and determined that a prohibited sign as defined by Section 53-11 of the Code of Ordinances of the City of Manvel exists on the Property listed above. The Property contains a sign which is prohibited. Specifically, the violation consists of: unapproved/ PUD approval expired off-premises sign/ billboard.

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City of Manvel Code Enforcement
281-971-5435



CITY OF MANVEL CODE ENFORCEMENT

20025 Hwy 6 Manvel, TX 77578 (281) 489-0630 Fax (281)-498-0634





CITY OF MANVEL
CODE ENFORCEMENT

20025 Hwy 6 Manvel, TX 77578 (281) 489-0630 Fax (281)-498-0634

Final Notice
Notice of Violation
April 21, 2022

NEW RODEO 288 LTD
ERIC UNGAR
CLINTON WONG
1616 S VOSS RD STE 618
HOUSTON, TEXAS 77057-2620

ID# 22-00106

Certified Letter: 7015 0640 0006 4248 6906

Re: Property located at 19 San Simeon Dr, Manvel, Brazoria County, Texas (the "Property").

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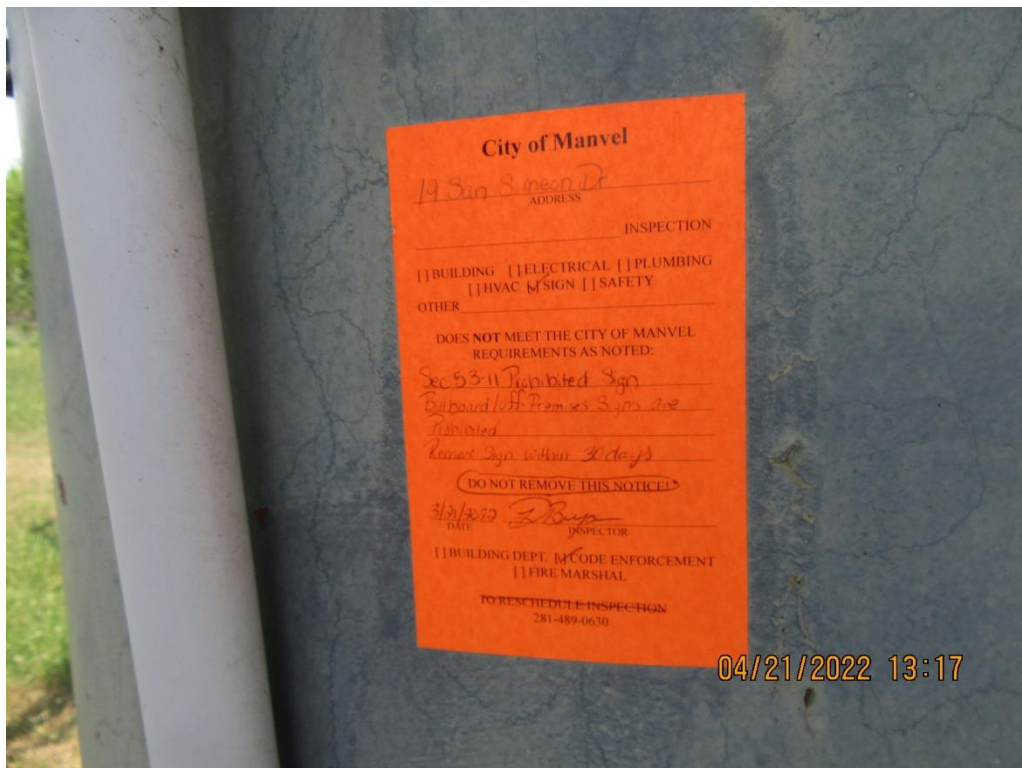
Danielle Bryan

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Code Enforcement Officer
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CITY OF MANVEL CODE ENFORCEMENT

20025 Hwy 6 Manvel, TX 77578 (281) 489-0630 Fax (281)-498-0634





CITY OF MANVEL
CODE ENFORCEMENT

20025 Hwy 6 Manvel, TX 77578 (281) 489-0630 Fax (281)-498-0634

Final Notice
Notice of Violation
April 21, 2022

NEW RODEO 288 LTD
ERIC UNGAR
CLINTON WONG
1616 S VOSS RD STE 618
HOUSTON, TEXAS 77057-2620

ID# 22-00107

Certified Letter: 7017 0640 0006 4248 6883

Re: Property located at 4000 Rodeo Palms Pkwy CR 82, Manvel, Brazoria County, Texas (the "Property").

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Sincerely,

Danielle Bryan

Danielle Bryan
Code Enforcement Officer
City of Manvel Code Enforcement
281-971-5435



CITY OF MANVEL CODE ENFORCEMENT

20025 Hwy 6 Manvel, TX 77578 (281) 489-0630 Fax (281)-498-0634



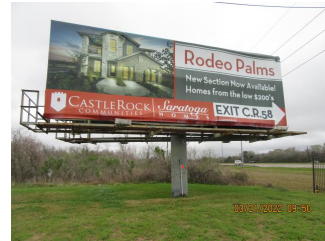
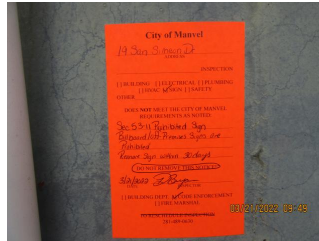
Comments List

Case Type: Sign Ordinance Violation | ID # 22-00106



Danielle Bryan

Code Enforcement, Mar 21, 2022 at 10:04 AM ago Initial Inspection- Red Tag Issued 3/21/2022: CE Officer Bryan Unapproved off-premise sign/billboard. Billboard was approved via Rodeo Palms PUD, 3002-O-07, Approved Marched 27, 2003: \"such signs shall be permitted for a period not to exceed ten (10) years, or when the Development is 90% built out\". Multiple attempts have been made, by City Manager Kyle Jung, to contact the property owner regarding the unapproved signs, including a NOV letter on 2/18/2020. No progress. Initial inspection: unapproved off-premise sign onsite. 30 day Red tag issued onsite. 30 day NOV letter mailed to property owner/developer 30 day NOV certified letter mailed to property owner/developer

**Danielle Bryan**

Code Enforcement, Mar 24, 2022 at 3:37 AM ago Phone Call 3/22/2022: Kyle Jung Wong called City Manager Kyle Jung stating the billboards benefit the neighborhood and the city. Kyle explained the violation to Wong. Wong stated that he wanted to talk to the City's Mayor to get an extension. Kyle explained an extension or alteration of the PUD must be approved by city council, not the mayor. Kyle suggests getting the PUD amended and resubmit it to City Council. Wong requested Kyle reach out to Wong's attorney and Kyle stated the attorney needs to reach out the Development Services.

**Danielle Bryan**

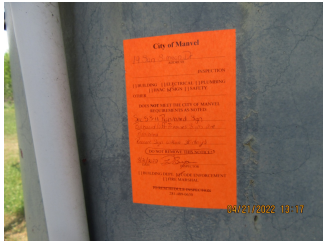
Code Enforcement, Apr 22, 2022 at 10:13 AM ago

Follow Up

4/21/2022: CE Officer Bryan

No visible change. No communication with Officer

30 day Final NOV certified mail to property owner



**Danielle Bryan***Code Enforcement, Apr 28, 2022 at 3:46 PM ago*

Meeting with City Manger

4/28/2022: CE Officer

Mr. Wong had a meeting with Officer and City Manger. He states that the billboards has been beneficial to both city and subdivision. He also provided a draft of an alteration to the PUD, requesting the sign remain until Dec 2023. City Manger mentions that an amendment to the PUD will take upwards of 60-90 days. Mr. Wong stated that he wants to keep the sign up until the PUD is approved. He intends to use the Billboards as visual advertisement for the future commercial development, that are still is planning but no confirmation plans yet. City Manger mentioned that the PUD was specifically for Rodeo Palms, and not for the adjacent developments. City Manger mentions that he has attempted to contact him prior to Code Enforcement's involvement, and it has now surpassed the limits of the PUD. Mr. Wong again pleads to keep the billboards up until Dec 2023. Kyle reiterates that the PUD was created to help the residential portion of the development and that the timing is off to take it a PUD amendment to Council. Kyle states that they are violation of the PUD and unless they are removed before the timeframe on the Final NOV, the will be citations. Kyle states that Mr. Wong can go to City Council during citizen comments and explain what they are trying to accomplish. Mr. Wong states he is not available for the first, but may attend the May 16. Mr. Wong request City Manager to petition for them, and City Manager stated that he would not and that would be for him to do. Officer stated that is it not for Code Enforcement to made adjustments, only to ensure the Code is followed. City Manager states again that Mr. Wrong could go to citizen comments of City Council. Mr. Wong wanted it put on Council agenda, and City Manager explained the steps to amend the PUD. Kyle also suggests creating a letter and submit it one week before the Council Meeting, so that the letter can be added to City Council's packet. Mr. Wong stated that he may just take the signs away and not development the commercial location.

**Danielle Bryan***Code Enforcement, May 12, 2022 at 9:19 AM ago*

Email

5/9/2022: Kyle Jung

Wong emailed a formal letter, to be added into the package for the City Council meeting scheduled on 5/16/2022, requesting an extension until Dec 2023.

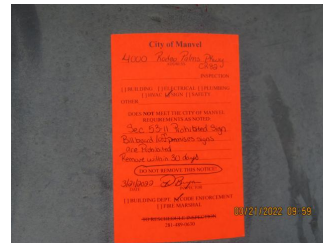
Comments List

Case Type: Sign Ordinance Violation | ID # 22-00107



Danielle Bryan

Code Enforcement, Mar 21, 2022 at 10:24 AM ago Initial Inspection- Red Tag Issued 3/21/2022: CE Officer Bryan Unapproved off-premise sign/billboard. Billboard was approved via Rodeo Palms PUD, 3002-O-07, Approved Marched 27, 2003: \"such signs shall be permitted for a period not to exceed ten (10) years, or when the Development is 90% built out\". Multiple attempts have been made, by City Manager Kyle Jung, to contact the property owner regarding the unapproved signs, including a NOV letter on 2/18/2020. No progress. Initial inspection: unapproved off-premise sign onsite. 30 day Red tag issued onsite. 30 day NOV letter mailed to property owner/developer 30 day NOV certified letter mailed to property owner/developer 30 day NOV letter emailed to property owner/developer



**Danielle Bryan**

Code Enforcement, Mar 24, 2022 at 3:37 AM ago Phone Call 3/22/2022: Kyle Jung Wong called City Manager Kyle Jung stating the billboards benefit the neighborhood and the city. Kyle explained the violation to Wong. Wong stated that he wanted to talk to the City's Mayor to get an extension. Kyle explained an extension or alteration of the PUD must be approved by city council, not the mayor. Kyle suggests getting the PUD amended and resubmit it to City Council. Wong requested Kyle reach out to Wong's attorney and Kyle stated the attorney needs to reach out the Development Services.

**Danielle Bryan**

Code Enforcement, Apr 22, 2022 at 10:23 AM ago

Follow Up

4/21/2022: CE Officer Bryan

No visible change. No communication with Officer

30 day Final NOV certified mail to property owner



**Danielle Bryan***Code Enforcement, May 02, 2022 at 9:29 AM ago*

Meeting with City Manger

4/28/2022: CE Officer

Mr. Wong had a meeting with Officer and City Manger. He states that the billboards has been beneficial to both city and subdivision. He also provided a draft of an alteration to the PUD, requesting the sign remain until Dec 2023. City Manger mentions that an amendment to the PUD will take upwards of 60-90 days. Mr. Wong stated that he wants to keep the sign up until the PUD is approved. He intends to use the Billboards as visual advertisement for the future commercial development, that are still is planning but no confirmation plans yet. City Manger mentioned that the PUD was specifically for Rodeo Palms, and not for the adjacent developments. City Manger mentions that he has attempted to contact him prior to Code Enforcement's involvement, and it has now surpassed the limits of the PUD. Mr. Wong again pleads to keep the billboards up until Dec 2023. Kyle reiterates that the PUD was created to help the residential portion of the development and that the timing is off to take it a PUD amendment to Council. Kyle states that they are violation of the PUD and unless they are removed before the timeframe on the Final NOV, the will be citations. Kyle states that Mr. Wong can go to City Council during citizen comments and explain what they are trying to accomplish. Mr. Wong states he is not available for the first, but may attend the May 16. Mr. Wong request City Manager to petition for them, and City Manager stated that he would not and that would be for him to do. Officer stated that is it not for Code Enforcement to made adjustments, only to ensure the Code is followed. City Manager states again that Mr. Wrong could go to citizen comments of City Council. Mr. Wong wanted it put on Council agenda, and City Manager explained the steps to amend the PUD. Kyle also suggests creating a letter and submit it one week before the Council Meeting, so that the letter can be added to City Council's packet. Mr. Wong stated that he may just take the signs away and not development the commercial location.

**Danielle Bryan***Code Enforcement, May 12, 2022 at 9:20 AM ago*

Email

5/9/2022: Kyle Jung

Wong emailed a formal letter, to be added into the package for the City Council meeting scheduled on 5/16/2022, requesting an extension until Dec 2023.

Danielle Bryan

From: Danielle Bryan
Sent: Friday, April 22, 2022 11:43 AM
To: eungar@skymarkdevelopment.com; cw@skymarkdevelopment.com
Cc: Danielle Bryan
Subject: FINAL NOTICE: Billboard Signs: 19 San Simeon Dr & 4000 Rodeo Palms Pkwy CR 82
Attachments: 2003-O-07 Rodeo Palms PUD.pdf; Sign letter - PUD requirement (2-18-2020).pdf; IMG_3959.JPG; IMG_3953.JPG; Zoning- Sign 30 day Final NOV Certified Letter.docx; Zoning-Sign 30 day Final NOV Certified Letter.docx

Importance: High

Final Notice

Notice of Violation

April, 22 2022

NEW RODEO 288 LTD
ERIC UNGAR
CLINTON WONG
1616 S VOSS RD STE 618
HOUSTON, TEXAS 77057-2620

ID# 22-00106
ID# 22-00107

Re: Property located at 19 San Simeon Dr & 4000 Rodeo Palms Pkwy CR 82, Manvel, Brazoria County, Texas (the "Property").

To whom it may concern,

I have personally witnessed and determined that a prohibited sign as defined by Section 53-11 of the Code of Ordinances of the City of Manvel exists on the Property listed above. The Property contains a sign which is prohibited. Specifically, the violation consists of: unapproved/ PUD approval expired off-premises sign/ billboard.

Pursuant to Chapter 53, Section 11 "Prohibited Signs," of the City's Code of Ordinances, **this notice requires that you abate the above-described condition within thirty (30) days of your receipt of this letter.** Failure to comply with this letter will result in you being subject to the filing of criminal charges in the Municipal Court and the City taking action to abate the violation described herein. Additionally, if the City takes action to abate the violation, the City may place a lien against the Property for the costs incurred by the City. Any person who knowingly, intentionally, recklessly or with criminal negligence violates 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 of any such provision shall constitute a separate offense.

According to the real property records of Brazoria County, Texas, you own the real property described in this notice. If you no longer own the property, you must execute an affidavit stating that you no longer own the property and stating the name and last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to this office no later than the 20th day after the date you receive this notice. If you do not send the affidavit, it will be presumed that you own the property described in this notice, even if you do not.

We understand that you may not be aware of these ordinances and we ask for your assistance in maintaining this property. Your cooperation with these ordinances contributes to the positive appearance of your neighborhood and of our community. Your cooperation in this matter is greatly appreciated. If we can be of further assistance to you, or can answer any questions regarding this matter, please contact this office at 281-489-0630 x3.

Sincerely,

Danielle Bryan

Danielle Bryan
Code Enforcement Officer
City of Manvel Code Enforcement
281-971-5435



Danielle Bryan

Code Enforcement

Office: 281-489-0630

Direct: 281-971-5435

danielle.bryan@cityofmanvel.com

20025 Hwy 6
Manvel, Tx 77578

<https://www.cityofmanvel.com/>

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From: Danielle Bryan <danielle.bryan@cityofmanvel.com>
Sent: Monday, March 21, 2022 3:55 PM
To: eungar@skymarkdevelopment.com; cw@skymarkdevelopment.com
Cc: Danielle Bryan <danielle.bryan@cityofmanvel.com>
Subject: Billboard Signs: 19 San Simeon Dr & 4000 Rodeo Palms Pkwy CR 82
Importance: High

Notice of Violation

March 21, 2022

NEW RODEO 288 LTD
ERIC UNGAR
CLINTON WONG
1616 S VOSS RD STE 618
HOUSTON, TEXAS 77057-2620

ID# 22-00106
ID# 22-00107

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Sincerely,

Danielle Bryan

Danielle Bryan
Code Enforcement Officer
City of Manvel Code Enforcement
281-971-5435



Danielle Bryan

Code Enforcement

Office: 281-489-0630

Direct: 281-971-5435

danielle.bryan@cityofmanvel.com

20025 Hwy 6
Manvel, Tx 77578

<https://www.cityofmanvel.com/>

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