

**ORDINANCE NO. OR-2305-23**

**AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS, AMENDING TITLE XI “BUSINESS REGULATIONS” OF THE CODE OF MANSFIELD, TEXAS, BY CREATING A NEW CHAPTER 117 ESTABLISHING REGULATIONS FOR THE USE OF PORTABLE ON DEMAND STORAGE UNITS; ESTABLISHING A PERMIT FOR THE PLACEMENT OF SUCH UNITS; PROVIDING FOR THE REVOCATION OF SUCH PERMITS; DECLARING A NUISANCE; PROVIDING FOR FEES RELATED TO CHAPTER 117; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; PROVIDING FOR PUBLICATION; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the City of Mansfield (the “City”) is a home rule municipality acting under its charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution and Chapter 9 of the Local Government Code; and,

**WHEREAS**, the City Council has determined that portable on demand storage units are being utilized for extended periods of time despite the fact that such units are intended and designed for temporary use; and,

**WHEREAS**, the improper usage, maintenance and placement of these units can impact the overall health, safety and welfare of the citizens of the City of Mansfield; and,

**WHEREAS**, the City Council desires to implement proper and appropriate regulations for these types of units, with the goals of both allowing a unified standard for these types of units and allowing for ease of compliance for its citizens; and,

**WHEREAS**, the City Council finds that it is in the best interest of the public health, safety, comfort, and general welfare that the use of such units be regulated.

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

**SECTION 1.**

Title XI, “Business Regulations,” of the Code of Mansfield, Texas is hereby amended by creating a new Chapter 117, “Portable On Demand Storage Units” to read as follows:

**“CHAPTER 117: PORTABLE ON DEMAND STORAGE UNITS**

**§117.01        DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CITY.** The City of Mansfield, Texas.

**CITY MANAGER.** The City Manager of the City of Mansfield, Texas or his/her designee.

**DIRECTOR.** The Director of the Regulatory Compliance Department.

**IMPROVED SURFACE.** A surface area providing a stable base in an area not subject to water run-off and/or flooding.

**PORTABLE ON DEMAND STORAGE UNIT or PODS.** Any box-like container, storage unit, shed-like container or other portable structure transportable by truck, tractor or other vehicle that can be, or is, used for the storage of personal property of any kind on a temporary basis and which is located for such purposes on residentially-zoned properties, or on properties the primary use of which is residential or mixed-use, outside an enclosed building. Also typically known as PODS, MODS, etc.

**REGULATORY COMPLIANCE DEPARTMENT.** The Regulatory Compliance Department and its authorized representatives, acting through the City Manager or their designated representative.

**§117.02 PERMIT REQUIRED.**

(A) It shall be unlawful for any person to park, place, store, locate or allow the placement of a PODS or similar unit on any residentially-zoned properties, or on properties the primary use of which is residential or mixed-use property, within the city without first submitting an application and obtaining a permit for the placement of said PODS or similar unit from the Regulatory Compliance Department.

(B) The permit shall be for a time period not to exceed thirty (30) days during which time the unit may be kept on the property. The 30 days shall include loading and unloading time. No more than one permit may be issued for any lot or parcel of property in any twelve (12) month period.

(C) An extension of the permit may be granted by the Regulatory Compliance Department and subject to conditions, for a reasonable additional period in an amount not to exceed thirty (30) days.

**§117.03 PLACEMENT OF PODS RESTRICTED.**

(A) It shall be unlawful for any person to park, place, store, locate or allow the placement of a PODS or similar unit in or upon any street, highway, roadway, designated fire lane or sidewalk in the city.

(B) It shall be unlawful for any person to park, place, store, locate or allow the placement of a PODS or similar unit upon any lot or property in the city without first having obtained a permit as required in this chapter.

**§117.04 REGULATIONS OF PORTABLE ON DEMAND STORAGE UNITS.**

(A) A PODS or similar unit shall be situated so as to:

- (2) Minimize the potential for interference with sight lines for motorists on adjoining streets and nearby driveways;
  - (3) Not encroach into drainage easements/areas or rights-of-way;
- (4) Not cause a person lawfully using the sidewalk to have to detour into the street in order to get around the unit;
- (5) Not cause hazardous conditions, constitute a threat to public safety, or create a condition detrimental to the surrounding land use and development; and
  - (6) If possible, toward the rear of the property line.

(B) A PODS or similar unit shall have a valid permit affixed to it in a conspicuous location for the duration of the unit's placement.

(C) A PODS or similar unit shall be placed on an improved surface.

(D) Not more than one (1) PODS or similar unit shall be parked, placed, stored, or located on any single lot or parcel of land.

(E) A PODS or similar unit shall not be stacked on top of another or on top of any other object.

(F) A PODS or similar unit shall be secured from entry by children and the general public when not attended.

#### **§117.05 PERMIT FEE.**

For the purpose of defraying the administrative costs of processing the application and ensuring compliance with this chapter, a non-refundable fee of five dollars (\$5.00) shall be paid with the submission of a permit application under this chapter.

#### **§117.06 NOTICE OF DENIAL OR REVOCATION; RIGHT OF APPEAL.**

(A) The Regulatory Compliance Department may revoke a permit issued pursuant to this chapter if a PODS or similar unit fails to remain in compliance with any regulations of this chapter. A permit that has been revoked shall still be included in determining the maximum number of permits that may be issued according to this chapter in any twelve (12) month period.

(B) If, after investigation, the Regulatory Compliance Department determines that revocation or denial of a permit is appropriate, the Regulatory Compliance Department shall notify the applicant or permittee in writing of the determination and the reason for the denial or revocation.

(C) The applicant or permittee, not later than the 15<sup>th</sup> day after the date the applicant or permittee is notified of the determination, may appeal the denial or revocation by filing of a notice of appeal with the Director. The Director shall consider the determination made by the Regulatory Compliance Department and may receive and consider information from the applicant or permittee. The Director shall render a decision either affirming or reversing the Regulatory

Compliance Department's determination within 10 days from the date the notice of appeal is filed and shall notify the applicant or permittee of the decision in writing.

(D) The applicant or permittee, not later than the 15<sup>th</sup> day after the date the applicant or permittee is notified of the Director's decision, may appeal the Director's decision affirming the determination to the City Manager by filing a notice of appeal with the Director. The City Manager shall consider information submitted by the Regulatory Compliance Department and may receive and consider information from the applicant or permittee. The City Manager shall render a decision either affirming or reversing the determination of denial or revocation within 10 days from the date the notice of appeal of the Director's decision is filed and shall notify the applicant or permittee of the City Manager's decision in writing.

(E) A notice of appeal filed under section shall be filed with the Director and shall include the following:

- (1) the name, address, phone number and email address of the applicant or permittee;
- (2) a designation of whether the applicant or permittee prefers to receive notices by regular mail or by email;
- (3) an explanation of the reason why the applicant or permittee disagrees with the determination or decision being appealed; and
- (4) a copy of the determination or decision being appealed.

#### §117.07 ABATEMENT OF VIOLATIONS.

(A) It shall be considered a public nuisance for a PODS or similar unit to be parked, placed, stored, located, used, or maintained in any manner contrary to this chapter and the city shall have the authority to abate any such violations.

(B) A PODS or similar unit that is not removed at the expiration of a permit, or after fifteen (15) days upon revocation of a permit by the Regulatory Compliance Department, the Regulatory Compliance Department may remove the PODS or similar unit from the property.

(C) The Regulatory Compliance Department may remove immediately and without notice a PODS or similar unit that is an immediate danger to health, life or safety of any person.

(D) Prior to abatement or removal of a PODS or similar unit under this section, the Regulatory Compliance Department shall send a written notice to the permittee or he owner of the property where it is located that states that if the violations are not corrected within ten (10) days from the date of the notice the Regulatory Compliance Department will abate the violations and remove the PODS or similar unit.

(E) At the expiration of ten days after notification, the Regulatory Compliance Department may do such work as necessary or cause the same to be done in order that the PODS or similar unit is removed.

(F) If the Regulatory Compliance Department abates a violation under this chapter by removing a PODS or similar unit, the Regulatory Compliance Department may pay for the work and cause the expense thereof and a reasonable administrative fee to be assessed against the property where the PODS or similar unit was located or which the PODS or similar unit was serving. A bill for the actual cost incurred by the Regulatory Compliance Department for the abatement and a reasonable administrative fee shall be sent to the permittee or owner of the property where it was located or which the PODS or similar unit was serving. If the bill has not been satisfied within 30 days of the date the bill was sent, the Regulatory Compliance Department may file a statement with the County Clerk of the expenses incurred in the abatement and a reasonable administrative fee, and the City shall have a privilege lien on the property upon which the expense was incurred, second only to tax liens and liens for street improvements, and 10% per annum interest on the amount from the date the payment is due.

(G) For a lien established under this section, the City may bring a suit to recover the amount secured by the lien, and the City may seek foreclosure on the property subject to the lien. The statement of costs filed with the County Clerk under this section shall be prima facie proof in a suit brought under this section of the amount expended by the City for the work performed.

**§§ 117.08-117.98. RESERVED.**

**§117.99 PENALTY.**

In addition to any other enforcement remedies that the city may have under this chapter, other City ordinances or other applicable law, any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this chapter shall be fined not more than \$500 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.”

#### **SECTION 2.**

All fees established by Chapter 117 of the Code of Mansfield, Texas or this ordinance shall be set forth in the Regulatory Compliance Department Fee Schedule.

#### **SECTION 3.**

All ordinances of the City in conflict with the provisions of this ordinance be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

#### **SECTION 4.**

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared void, ineffective, or unconstitutional by the valid judgment or final decree of a court of competent jurisdiction, such voiding, ineffectiveness, or unconstitutionality shall not affect any of the remaining phrases, clauses,

sentences, paragraphs and sections hereof, since the same would have been enacted by the City Council without the incorporation of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 5.**

Any person, firm or corporation who violates any provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof in the Municipal Court of the City of Mansfield, Texas, shall be punished by a fine not to exceed the sum of Five Hundred Dollars (\$500.00) for each offense, and each and every day any such violation shall continue shall be deemed to constitute a separate offense.

**SECTION 6.**

The caption and penalty clause of this ordinance shall be published in compliance with Section 3.13 of the City Charter.

**SECTION 7.**

All rights and remedies of the City of Mansfield are expressly saved as to any and all violations of the provisions of the Code of Mansfield, Texas, as amended, or any other ordinances affecting the subject matter of this ordinance which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

**SECTION 8.**

This ordinance shall take effect immediately from and after its passage on the first and final reading and publication as required by law, and it is so ordained.

**DULY PASSED ON THE FIRST AND FINAL READING BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, THIS 12<sup>TH</sup> DAY OF JUNE, 2023.**

ATTEST:

*Susana Marin*


Susana Marin, City Secretary



*Michael Evans*

Michael Evans, Mayor

**APPROVED AS TO FORM AND LEGALITY:**

  
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**Bradley Anderle**, City Attorney