

ORDINANCE NO. OR-1740-09

AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS, AMENDING VARIOUS SECTIONS OF ARTICLE IX OF CHAPTER 91 OF THE CODE OF ORDINANCES OF THE CITY OF MANSFIELD, 91.01, 91.02, 91.03, 91.04, 91.05 AND ADOPTING THE 2006 *INTERNATIONAL FIRE CODE SECTION 91.15*; ADOPTING APPENDICIES B, C, AND D; AMENDING SECTION 91.16 WHICH ESTABLISHES A FIRE PREVENTION DIVISION OF THE MANSFIELD FIRE DEPARTMENT; AMENDING SECTION 91.18 WHICH ESTABLISHES LIMITS FOR THE STORAGE OF FLAMMABLE OR COMBUSTIBLE LIQUIDS IN OUTSIDE, ABOVEGROUND TANKS; AMENDING SECTION 91.19 TO ESTABLISH LIMITS FOR THE BULK STORAGE OF LIQUIFIED PETROLEUM GAS; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF A FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, the City wishes to adopt the 2006 Edition of the *International Fire Code* to provide for the safety of the citizens of Mansfield; and

WHEREAS, the City Manager and his staff have recommended certain amendments to the *International Fire Code*, and

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

SECTION 1 – That Section 91.01 of the Code of Ordinances, City of Mansfield be and the same is hereby amended to read as follows:

Section 91.01 - Hazardous Conditions; Abatement; Reports to State Fire Marshal.

- (A) The Fire Marshal, upon complaint of any person having an interest in any building or property adjacent and without any complaint, shall have a right at all reasonable hours, for the purpose of examination, to enter into and upon all buildings and premises within the city, and it shall be his/her duty, ~~monthly or more often~~ *as the Fire Marshal deems necessary*, to enter upon and make or cause to be entered and made, a thorough examination of all mercantile, manufacturing and public buildings, together with the premises belonging thereto. Whenever he/she shall find any building or other structure which, for want of repair, or by reason of age or dilapidated condition, or for any cause is especially liable to fire, and which is so situated as to endanger other buildings or property, or so occupied that fire would endanger persons or property therein, and whenever he/she shall find an improper or dangerous arrangement of stoves, ranges, furnaces or other heating appliances or any kind whatsoever, including chimneys, flues and pipes with which the same may be connected, or a

dangerous arrangement of lighting devices or systems, or a dangerous or unlawful storage of explosives, compounds, petroleum, gasoline, kerosene, dangerous chemicals, vegetable products, ashes, combustible, inflammable and refuse materials or other conditions which may be dangerous in character or liable to cause or promote fire or create conditions dangerous to the firefighters or occupants, he/she shall by written order direct the same to be removed or remedied, and such order shall within five days from the date of the order be complied with by the owner or occupant of the building or premises. Provided, however, if the owner or occupant deems him/herself aggrieved by the order, he/she may, within five days from the date of the order, appeal to the City Manager specifying in writing the grounds upon which the appeal is based. The City Manager shall investigate the cause of the complaint and the grounds of the appeal and, unless by his/her authority the order is revoked the order shall remain in force and be complied with by the owner or occupant as originally entered by the Fire Marshal or as amended or revised by the City Manager, the compliance to be within five days of the date of the action thereon by the City Manager.

- (B) At the end of each month, the Fire Marshal shall report to the State Fire Marshal all existing hazardous conditions, together with a separate report on each fire in the city during the month.

Section 91.02 - Maintaining Hazardous Conditions.

Any owner or occupant of any building or other structure or premises who shall keep or maintain the same when, for want of repair, or by reason of age or dilapidated condition, or for any cause, it is especially liable to fire, and which is so situated as to endanger buildings or property of others, or is especially liable to fire and which is so occupied that fire would endanger other persons or their property therein shall be punished by a fine as provided in §91.99.

Section 91.03 - Dangerous Arrangement of Stoves and the Like.

Any owner or occupant of any building or other structure or premises who shall keep or maintain the same with an improper arrangement of a stove, range, furnace or other heating appliance of any kind whatever, including chimneys, flues and pipes with which the same may be connected, so as to be dangerous in the matter of fire or health or safety of persons or property of others; or who shall keep or maintain any building, other structure or premises with an improper arrangement of a lighting device or system, or with a storage of explosives, petroleum, gasoline, kerosene, chemicals, vegetable products, ashes, combustibles, inflammable materials, refuse or with any other condition which shall be dangerous in character to the persons, health or property of others; or which shall be dangerous in the matter of promoting, augmenting or causing fires; or which shall create conditions dangerous to firefighters, or occupants of the buildings, structure or premises other than the maintainer thereof, shall be punished by a fine as provided in §91.99.

Section 91.04 - Notice Prerequisite to Prosecution.

No prosecution shall be brought under §91.02 or §91.03 until the written order provided for in §91.01 be given, and the party notified shall fail or refuse to comply with the same as therein provided. For the purpose of this section notice shall be deemed received if sent via U.S. Mail to the last known address on file with Mansfield Fire Department.

Section 91.05 - Permit Fees

(A.) The following fees are established for permits and other activities of the City Fire Department, Fire Prevention Bureau.

Above ground storage tank installation	\$100Per Tank
Automatic sprinkler system installation	
1-20 heads	\$50
21-150 heads	\$100
151-500 heads	\$200
501-1000 heads	\$300
cost per head over 1,000	\$1
Chemical extinguishing system	\$75 per system
Day care permit	\$75 annually*
Elevator installations	\$50 per elevator
Fire alarm installation	
1-10 devices	\$50
11-25 devices	\$75
26-99 devices	\$150
100-199 devices	\$200
200 – 400 devices	\$300
cost per device over 400	\$1
Fireworks, blasting and pyrotechnics	\$125
Gate installation permit (Required for gates across private streets or electric gates across fire lanes.)	\$50 per gate location
LP gas installation – over 2,000 gallon single or 4,000 gallon aggregate	\$100 per tank
Open burning:	
Single day	\$50 per location**
Multi day (7 day maximum)	\$200 per location

Private fire lines and hydrant installations	\$50
Smoke control system installation	\$100
Special egress control device installation (Mag locks or other non-conventional security locks on required exit doors)	
1 – 10 devices per location	\$100
each additional 10 devices or portion thereof	\$50
Spray booth installation	\$75 per booth
Standpipe systems	\$50 per system
Underground storage tank installation/removal/ abatement	\$100 per tank*
Underground storage tank miscellaneous equipment or system	\$50 per location

(B.) No permit penalty. The fee is doubled if work is begun without a permit and is tripled for subsequent violations by the same contractor within three years. This penalty does not preclude additional penalties in the form of citations or other legal remedies available.

(C.) Other fees.

After hours inspection fee (6:00 p.m. – 7:00 a.m., Monday – Friday or weekends)	\$45 per hour with two hour minimum paid in advance
Site assessment fee	\$100 per site/request**
Re-inspection fees	\$30 per occurrence After two inspections
Photograph/video copy fees	Actual cost of duplication for photographs or \$5 for video tape, plus \$5 handling fee and \$2.50 mailing fee.

* These fees are referenced by other ordinances. The fee may be collected under either ordinance, but are not to be duplicated.

** Permit fees are waived for these permits for governmental and for non- profit organizations or groups.

SECTION 2 – That Section 91.15 of the Code of Ordinances, City of Mansfield be and the same is hereby amended to read as follows:

Section 91.15 - Adoption of the International Fire Code.

The City of Mansfield hereby adopts, the *International Fire Code*, published by the International Code Council, the 2006 Edition, save and except such portions as are hereafter amended. The same are hereby adopted and incorporated as fully as if set out at length herein and from and after the passage of the ordinance adopting this section, the provisions thereof shall be controlling within the limits of the City of Mansfield. The adoption of the *International Fire Code* does not extend to the appendices thereto unless specifically adopted elsewhere in this document. Not less than three copies of the *International Fire Code*, 2006 edition will be kept on file or available in the office of the City Secretary.

SECTION 3 – That Section 91.16 of the Code of Ordinances, City of Mansfield, be, and the same is hereby amended to read as follows:

Section 91.1 - Establishment and Duties of the Fire Prevention Division.

- A. The City of Mansfield hereby establishes a fire prevention division as described in Section 103 of the *International Fire Code*, 2006 Edition. The fire prevention division is charged with enforcement of the *International Fire Code*, as amended, as well as other ordinances and laws over which the fire prevention division has responsibility. The fire prevention division has the authority to enforce any provision of the current adopted Building Code, Plumbing Code, Fuel Gas Code, Mechanical Code or Electrical Code related to fire or life safety features of the referenced Codes. Any interpretation of the Building, Plumbing, Mechanical or Electrical Codes are the sole responsibility of the Authority Having Jurisdiction over the Code in question. Corrective notices, citations or other corrective actions as allowed by law may be issued for violations of the referenced Codes. The fire prevention division shall be operated under the supervision of the fire chief.
- B. The Chief of the Fire Department shall be appointed by the City Manager, or his designee.
- C. The Chief of the Fire Department shall appoint a fire marshal, who shall be responsible for the provisions of the *International Fire Code* and related duties and functions as described by law or policy. The fire marshal is designated as The Authority Having Jurisdiction over the Fire Code as amended, and is the “code official” for the *International Fire Code*. The chief may detail such members of the department to the fire prevention division as may be necessary. All members of the Mansfield Fire Department are authorized to request compliance with any provision of the Codes as described in subsection (a), except that only those members of the division who have been specifically granted authority by the chief and fire marshal, and who have completed formal training and have a certification as an inspector or peace officer may issue a citation, or take enforcement action. The fire marshal, inspectors, investigators and any peace officer employed by or working under the direction of the Mansfield Police Department,

Mansfield Fire Department, or the Mansfield Independent School District Police Department (for those M.I.S.D. facilities located within the Corporate limits of the City of Mansfield) may issue citations for any violations of the *International Fire Code* as amended. Personnel assigned to the fire prevention bureau may take any action as allowed by law to remedy a violation of the Code.

SECTION 4 - DEFINITIONS

That Section 91.17 of the Code of Ordinances of the City of Mansfield, be, and the same is hereby amended to read as follows:

Section 91.17 - Definitions.

It is the specific intent that these definitions be considered as a part of Section 202 of the *International Fire Code*, 2006 Edition, without being duplicated as an amendment to that specific section elsewhere in this document.

- A. Wherever the word "jurisdiction" is used in the *International Fire Code* or amendments thereto, it shall mean the City of Mansfield and the Extra Territorial Jurisdiction (ETJ) where specific sections of this Code as amended are applicable in the ETJ.
- B. The terms "fire marshal, code official, fire code official, fire code authority and code authority" are interchangeable in this Code and shall mean the Chief of the Bureau of Fire Prevention.
- C. Whenever the term "*International Fire Code*" is used, it shall mean the 2006 *International Fire Code* and all supplements, attachments and amendments as adopted herein.
- D. "False Alarm" is the reporting, signaling or activation by any means of an alarm for which no such fire or emergency actually exists. This includes communicating or circulating a report of a present, past or future bombing, fire, offense, or other emergency that is known to be false or baseless and that would; 1) ordinarily cause action by any official or volunteer agency organized to deal with emergencies; or 2) place a person in fear of imminent serious bodily injury or death; or 3) prevent or interrupt the occupation of a building, room, place of assembly, place to which the public has access or any mode of conveyance.
- E. "Fireworks" is a combustible or explosive composition, substance, or combination of substances, or a device prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation. Fireworks include blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used; firecrackers, torpedoes, sky rockets, roman candles, sparklers or other devices of like construction; any device containing an explosive or flammable compound; and any tablet or other device containing an explosive substance. Fireworks do not include auto flares, paper caps containing an average of twenty five hundredths of a grain of explosive content per cap or less; and toy pistols, toy canes, toy guns or other devices for use of such caps." This definition supplements the definition found in Section 3302.1.
- F. High-Rise Building. A building having floors used for human occupancy located more than 65 feet (19,812 mm) above the lowest level of fire department vehicle access.
- G. "Self Service Storage Facility" is real property designed and used for the purpose of renting or leasing individual storage spaces to customers for the purpose of storing and removing personal property on a self-service basis.

- H. "Standby Personnel". Qualified fire service personnel, approved by the Fire Chief. When utilized, the number shall be as directed by the Fire Chief. Charges for utilization shall be as normally calculated by the jurisdiction.

SECTION 5 - Establishment of Limits of Districts in which Storage of Flammable or Combustible Liquids in Outside Aboveground Tanks is Prohibited.

That Section 91.18 of the Code of Ordinances, City of Mansfield, be, and the same is hereby amended to read as follows:

Section 91.18 - Establishment of limits of districts in which storage of flammable or combustible liquids in outside, aboveground tanks are to be prohibited.

- A. The limits referred to in Section 3404.2.9.5.1 and 3406.2.4.4 of the *International Fire Code*, 2006 Edition, in which storage of flammable or combustible liquids in outside, aboveground tanks is prohibited, are hereby established as follows:

(1) Flammable Liquids

- a. Motor Fuels: The entire City of Mansfield, except agriculture or farm properties in excess of ten acres where the fuel is incidental to the operation of farm equipment, or installations complying with the provisions of the *International Fire Code* Section 2206 as amended and that are in an area zoned as a C-2, C-3, I-1, I-2 zoning district, within a planned development district which specifically authorizes such use, when the requirements of the *International Fire Code* as amended are met.
- b. Other flammable liquids: The entire City of Mansfield, except that flammable liquids incidental to a commercial or manufacturing process may be allowed in outside, above ground tanks provided the construction, installation, and placement of the tank and the handling and use of the liquid conforms to the requirements of the *International Fire Code* as amended, and other applicable standards, and further provided that such tanks are located in an area zoned as a C-2, C-3, I-1, I-2 zoning district, or are within a planned development district which specifically authorizes such use.

(2) Combustible Liquids

- a. Motor Fuels: The entire City of Mansfield, with the following exceptions:
 - (i) Subdivision development and construction sites when the fuel storage is in compliance with the requirements of the *International Fire Code* Section 2206 as amended.
 - (ii) Agriculture or farm property in excess of ten acres when the fuel is incidental to the operation of farm equipment.
 - (iii) Installations within the limits allowed under the provisions of Section 2206 as amended and complying with the provisions of Section 2206 as amended

provided the installation is in an area classified as a C-2, C-3, I-1, I-2 or has approval for such installation as part of a PD zoning district.

- (iv) Fuel associated with road projects that are under the control of the Texas Department of Transportation.
- (v) Existing above ground diesel storage tanks that were in place prior to the adoption of this ordinance, that do not exceed a maximum capacity of 550 gallons, that were in compliance with the codes at the time they were originally installed and are in compliance with other provisions of this code for above ground fuel storage and dispensing operations. It is the specific intent of this clause to only allow continued use of existing tanks. No tank may be added to any site within the City, nor may any existing tank be replaced with any other tank, unless the tank meets the provisions of this code.

Provided that the storage of diesel and other class II motor fuels in outside, aboveground tanks under these exceptions is conditioned that the construction, installation, and placement of the tank and the handling and use of the fuel conforms to the requirements of the *International Fire Code* and other applicable standards.

- b. Other combustible liquids: The entire City of Mansfield, with the following exceptions:
 - (i) Property located within the following zoning districts: C-2, C-3, I-1, I-2 and where specifically authorized in planned development districts.

- B. It is the intention of this section to entirely prohibit bulk plants and refineries for flammable liquids within the corporate limits of the City of Mansfield.

SECTION 6- Establishment of Limits in which Storage of Liquefied Petroleum Gases is Prohibited.

That Section 91.19 of the Code of Ordinances, City of Mansfield, be, and the same is hereby amended to read as follows:

Section 91.19 - Establishment of safety rules for the storage of liquefied petroleum gas.

- A. The storage and use of liquefied petroleum gases shall be in accordance with the *International Fire Code*, N.F.P.A. Standard #58 and any rules adopted by the Railroad Commission of Texas. The City recognizes that LP Gas is regulated in the State by the Railroad Commission and adopts by reference the Safety Rules promulgated by the Railroad Commission of Texas (NFPA # 58). Where a conflict exists between these regulations, the more restrictive shall apply.
- B. Liquefied Petroleum Gas is prohibited in the City with the following exceptions.
 - 1) Fixed tanks are prohibited in multifamily zoning districts;
Exception: A single tank with a capacity not to exceed 250 gallons is permitted for the purpose of heating swimming pools provided natural gas is not available

to the site. The tank must be located a minimum of 10 feet from any dwelling unit.

- 2) Single family zoning districts are permitted one 250 gallon tank, provided the tank complies with the spacing provisions of this code. If the tank is placed where it is a minimum of 10 feet from any adjacent structure or property line, the amount may be increased to 500 gallons.
- 3) Commercial zoning districts are permitted tanks of up to 1000 gallon capacity, provided they meet the provisions of this Code.
- 4) Industrial zoning districts are permitted to use containers with any quantity permitted by this Code.
- 5) Planned development districts are permitted to have tanks in any quantity authorized by the PD provided the tank installation conforms with the provisions of this Code.

Exception: LPG tanks installed prior to the effective date of this ordinance that were in compliance with applicable codes at the time of their installation are allowed to continue in use. Any tank covered by this exception may not be replaced with a tank in violation of this section.

- C. Existing non-conforming uses involving the sale of LPG and tank sizes will be allowed to continue. No additional tanks may be installed unless they comply with the provisions of this code.
- D. It is the specific intent of this section to prohibit the bulk storage of LP Gas within the City of Mansfield except as herein established.
- E. Quantities referred to in this section are aggregate quantities on each tract of land. It is the responsibility of the property owner and the installer of any LPG tank to insure compliance with these regulations and any tank installed in violation of these provisions must be immediately removed.

SECTION 7 – Establishment of Limits of Districts in which the Storage of Explosives and Blasting Agents is to be Prohibited.

That Section 91.20 of the Code of Ordinances of the City of Mansfield be, and the same is hereby amended as follows:

The limits referred to in Section 3301.2.3 of the *International Fire Code*, in which the storage of explosives and blasting agents is prohibited are established as the entire City except land located in the C-3, I-1, I-2 zoning districts or within a planned development district which specifically authorizes such use, and the Fire Department has issued the applicable permit.

SECTION 8 - Establishment of Limits of Districts in which the Storage of Compressed Natural Gas is to be Prohibited.

That Section 91.21 of the Code of Ordinances of the City of Mansfield is, and the same is hereby amended to read as follows:

The limits referred to in Section 6 of this document for the storage of Liquefied Petroleum Gas shall also apply to the storage of Compressed Natural Gas. CNG is prohibited except in those areas as are hereby established: The entire City of Mansfield except those areas and quantities as established under Section 6 for Liquefied Petroleum Gases.

SECTION 9 - Establishment of Limits of Districts in which the Storage of Stationary Tanks of Flammable Cryogenic Fluids are to be Prohibited.

That Section 91.22 of the Code of Ordinances of the City of Mansfield is, and the same is hereby amended to read as follows:

“The presence of flammable cryogenic fluids in stationary containers is prohibited in the entire City of Mansfield.”

SECTION 10 - Establishment of Limits of Districts in which the Storage of Hazardous Materials is to be Prohibited or Limited.

That Section 91.23 of the Code of Ordinance of the City of Mansfield is, and the same is hereby amended to read as follows:

Limits on Storage of Hazardous Materials -

The presence of hazardous materials in excess of the exempt amounts as defined in the *International Fire Code* is prohibited in the entire City except properties located within the following zoning districts: C-2, C-3, I-1, I-2 and where specifically authorized in planned development districts.

SECTION 11 - Amendments to the International Fire Code.

That Section 91.24 of the Code of Ordinances of the City of Mansfield is established to read as follows:

Sec. 91.24 Amendments to the *International Fire Code*.

The *International Fire Code*, 2006 Edition, is amended as listed in Exhibit “A” Amendments to the 2006 International Fire Code.

SECTION 12 - APPEALS

That Section 91.25 of the Code of Ordinance of the City of Mansfield is established to read as follows:

Whenever the fire marshal disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal in writing from the decision of the fire marshal to the fire chief within ten days from the date of the decision appealed. The fire chief will review the circumstances and either render an opinion or establish a Board of Appeals in

compliance with Appendix A of the *International Fire Code*, which after hearing all facts in the case, shall render a written judgment.

SECTION 13 – NEW MATERIALS, PROCESSES OR OCCUPANCIES WHICH MAY REQUIRE PERMITS.

That Section 91.26 of the Code of Ordinances of the City of Mansfield is established to read as follows:

The fire chief or his designee and fire marshal shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies for which permits may be required in addition to those already enumerated in *The International Fire Code*.

SECTION 14 - PENALTIES

That Section 91.99 of the Code of Ordinances, City of Mansfield, be, and the same is hereby added to read as follows:

Section 91.99. Penalties

- a) Any person who shall violate any of the provisions of this code hereby adopted or who fails to comply therewith, or who shall build in violation of any detailed statement or specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the Board of Appeals or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and non compliance be guilty of a misdemeanor, and punished by a fine not in excess of Two Thousand Dollars (\$2,000.00). The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and, when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.
- b) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions, or any other official action authorized by law.

SECTION 15 - REPEAL OF CONFLICTING ORDINANCES

All ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance, of the Code of Ordinances as hereby amended, or of the *International Fire Code*, 2006 Edition, hereby adopted, are hereby repealed.

SECTION 16 - VALIDITY

Should any paragraph, sentence, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 17 - PERMIT FEES

All fees, fines, costs or other expenses authorized herein may be hereafter amended by resolution duly adopted by the Mansfield City Council. This ordinance and any subsequently adopted resolutions hereby replace and repeal the Permit Fees contained in Chapter 91.05 of the City of Mansfield Code of Ordinances.

SECTION 18 - EFFECTIVE DATE

FIRST READING APPROVED ON THIS 9TH DAY OF MARCH, 2009.

SECOND READING APPROVED ON THIS 23RD DAY OF MARCH, 2009.

DULY PASSED ON THE THIRD AND FINAL READING BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS THIS 13TH DAY OF APRIL, 2009.



David L. Cook, Mayor

ATTEST:



Vicki Collins, City Secretary

APPROVED AS TO FORM AND LEGALITY:



City Attorney