

**CITY OF BELLMEAD
ORDINANCE NO. 2024-04**

AN ORDINANCE OF THE CITY OF BELLMEAD, TEXAS, IS HEREBY AMENDED; CHAPTER 9 – HEALTH AND HUMAN SERVICES; ARTICLE I. – IN GENERAL; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Ordinance 2000-03 was adopted in May 2000 adopting regulations for retail food service and retail food service establishments including creating a fee schedule for food establishment business licenses; and,

WHEREAS, amending Sec. 9-4. Regulatory authority will include the City of Bellmead; and,

WHEREAS, amending Sec. 9-15. Food Establishment Fees will update the Code of Ordinances to reflect the current Master Fee Schedule.

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

SECTION 1. That the facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct.

SECTION 2. Chapter 9 of the Code of Ordinances of the City of Bellmead, Texas, is amended, to read as follows:

Sec. 9-4. Definitions.

In addition to the definitions found in the Texas Food Establishment Rules, the following words and terms, when used in this article, shall have the following meanings unless the context clearly indicates otherwise:

DSHS—Texas Department of State Health Services.

Food establishment—In addition to the definition found in the Texas Food Establishment Rules, a food establishment includes an establishment that contains more than one hundred (100) square feet of display space of commercially prepackaged food products; or childcare centers that care for seven (7) or more children and which prepare food for consumption by the children other than ready to eat food for snacks and drinks.

Frozen food—Food kept in a solid frozen state in cooling equipment that maintains an air temperature of zero degrees Fahrenheit or below, except for defrost cycles and brief periods of loading or unloading from the cooling equipment when the food temperature shall not exceed forty-one (41) degrees Fahrenheit.

Nonprofit organization—an organization with a 501(c)(3) exemption or an exemption as a "church" in section 170(b)(1)(A)(I) of the Internal Revenue Code.

Regulatory authority—The Waco-McLennan County Public Health District. City of Bellmead personnel as determined appropriate by the City Manager.

TCS—Time/Temperature Controlled for Safety Food as defined in the Texas Food Establishment Rules (formerly Potentially Hazardous Food).

Sec. 9-14. Food establishment permit requirements (including mobile, temporary, and other).

- (a) Any person desiring to operate a food establishment must make a written application for a permit on forms provided by the regulatory authority. Applications will remain valid for six (6) months. If no permit is issued within six (6) months, a new application and applicable fee must be submitted.
 - (1) The application must contain:
 - a. The applicant's full name;
 - b. An indication of whether such applicant is an individual, business, or a corporation;
 - c. The location and type of the proposed food establishment;
 - d. The applicable fee and the signature of the applicant.
 - (2) If the application is for a temporary food establishment, it shall also include the inclusive dates and times of the proposed operation.
 - (3) Failure to provide all information requested by the regulatory authority or providing false information may result in denial or revocation of the permit. An incomplete application will not be accepted.
- (b) Renewals of permits are required on an annual basis, except for temporary establishments.
 - (1) It is the responsibility of the applicant, owner, permit holder or person in charge of each food establishment to renew the permit before the expiration date of the permit.
 - (2) The renewal must include any information that has changed from that provided on the original application.
 - (3) Any owner, permit holder or person in charge may be required to cease operations or temporarily close, if found operating without a valid permit.
- (c) Prior to the approval of an initial permit or the renewal of an existing permit, the regulatory authority shall inspect the food establishment to determine compliance with these regulations. A permit cannot be issued or renewed if the food establishment has priority item or priority foundation item violations, imminent health hazards, or previously identified violations not corrected. A permit will not be issued, renewed or reissued if required permit fees have not been paid or if any late or delinquency fees have not been paid.
- (d) Before issuing a permit, the regulatory authority may require an applicant to provide plans of the food establishment prior to construction, extensive remodeling or conversion of an existing structure. The plans must indicate the proposed layout, equipment arrangement,

mechanical plans, construction of materials of work areas, and the type and model of proposed fixed equipment and facilities.

- (e) The regulatory authority may charge and collect a fee for permits and permit renewals at the time of application in accordance with the approved fee schedule.
 - (1) Failure to submit an application with the required fee for a temporary food establishment at least five (5) working days prior to the event or celebration will result in the assessment of a late fee double the amount of the normal fee amount.
 - (2) Food establishment application permit fees are non-transferrable and non-refundable and shall be due as follows:
 - a. Temporary food establishments: upon receipt;
 - b. All other food establishments: upon commencement of the onsite inspection.
- (f) A food establishment, except for a temporary food establishment, is not required to obtain more than one (1) permit for each location. Food establishments operating at one (1) location with different management or ownership or franchise are required to obtain separate permits. Permits are required for each temporary establishment at each location.
- (g) A permit shall be for a specific food establishment at a specific location. Permits are not transferable from person to person. Permits are not transferable from location to location, except for mobile and roadside food establishments.
- (h) If an application for a permit is denied, the regulatory authority shall send written notice to the permit applicant of the reasons for such denial. The denial may be appealed in accordance with this article.
- (i) Suspension of permits. A permit may be suspended temporarily by the regulatory authority for failure of the permit holder or person in charge of the food establishment to comply with the requirements of these regulations.
 - (1) Whenever a permit holder or person in charge of a food establishment has failed to comply with any notice issued under the provisions of these regulations, the permit holder or person in charge of the food establishment shall be notified in writing that the permit is, immediately suspended upon service of the notice and that all food service operations of the affected food establishment must immediately cease.
 - (2) Whenever the regulatory authority determines in its sole judgment that conditions in the operation of a food establishment constitute a substantial or imminent health hazard, the regulatory authority may issue a written notice to the permit holder or person in charge of the food establishment citing such conditions, specifying the corrective actions to be taken, and, if deemed necessary, stating that the permit is suspended and that all food service operations of the affected food establishment must immediately cease.
 - (3) Any permit holder or person in charge of a food establishment to whom a suspension notice is issued shall comply immediately therewith.
 - (4) The holder of a suspended permit will be provided with an opportunity for a hearing if a written request for a hearing is filed with the regulatory authority no later than the fifth calendar day after receipt of notice of the suspension. A request for a hearing does not relieve the permit holder of the duty to comply with the suspension fully and

continuously until the date of the hearing. If a hearing is not requested as provided herein, the permit holder shall fully and continuously comply with the suspension order until the permit is reinstated.

- (j) Reinstatement of suspended permits. Any permit holder or person in charge of a food establishment for which the permit has been suspended, after making all corrections, may request a reinspection to be performed during normal business hours of the regulatory authority, for the purpose of determining if the permit shall be reinstated.
 - (1) A reinspection fee in accordance with the approved fee schedule must be paid to the office of the regulatory authority before the reinspection will be performed.
 - (2) The Regulatory Authority will arrange a time with the permit holder or person in charge of the food establishment to perform the reinspection.
 - (3) If the permit holder or person in charge of the food establishment is found to have complied with the requirements of these regulations, the permit shall be reinstated.
- (k) Revocation of permits. For serious or repeated health hazards and violations of any of the requirements of these regulations, or for interference with the regulatory authority in the performance of its duties, the permit may be revoked.
 - (1) Prior to revocation, the regulatory authority shall notify the permit holder in writing, stating the reasons for which the permit is subject to revocation and advising that the permit shall be revoked on the fifth calendar day after service of such notice, unless a written request for a hearing is filed with the regulatory authority by the permit holder no later than the fifth calendar day after receipt of the notice.
 - (2) A permit may be suspended pending its revocation or revocation hearing.
- (l) Appeal of denial, suspension or revocation of permit.
 - (1) The initial decision and notice by an inspector to suspend or revoke a permit may be appealed to the supervisor over the inspector by giving written notice to the supervisor no later than the fifth calendar day after receipt of the written notice of the decision. The supervisor may uphold, reverse, or modify the decision of the inspector. If an appeal is not filed as provided herein, the decision of the inspector is final and no further appeal will be considered.
 - (2) The initial denial of a permit, or the decision of the supervisor over the inspector following an appeal of the inspector's decision to suspend or revoke a permit as provided in (1) above, may be appealed to the director of the regulatory authority by filing a written notice of appeal with the director no later than the fifth day after receipt of written notice of the initial or appeal decision. The director of the regulatory authority may uphold, reverse, or modify the decision to deny, suspend or revoke the permit. If an appeal is not filed as provided herein, the initial or appeal decision is final and no further appeal will be considered.
 - (3) The decision of the director may be appealed to the city manager by filing notice of the appeal with the city manager no later than the fifth calendar day after receipt of written notice of the director's decision. The city manager may uphold, reverse, or modify the decision of the director. If an appeal is not filed as provided herein, the decision of the director is final and no further appeal will be considered.

(4) The decision of the city manager is final.

(m) Hearings.

- (1) A hearing provided for in this section shall be conducted at a time and place designated by the party conducting the hearing. A hearing shall be conducted as soon as possible after a written request for a hearing.
- (2) Based upon the record and information and evidence presented during the hearing and these regulations, the party conducting the hearing shall make a finding and shall uphold, reverse or modify the prior decision to deny, suspend or revoke the permit.
- (3) Written notice of the hearing decision shall be furnished to the permit holder.
- (4) If the decision results in revocation of the permit, the permit holder may not apply for a new permit for one (1) calendar year from the date of the decision at any location within the city.

(n) Counting days. When counting the calendar day time period specified in this section, if the final day is a Saturday, Sunday, or holiday for the regulatory authority, then the time period ends on the next day that is not a Saturday, Sunday, or holiday for the regulatory authority. In determining a date that occurs after a certain event, the first day to be counted is the calendar day after the day of the event.

Sec. 9-15. Food establishment fees.

All fees are located on the master fee schedule.

SECTION 3. That all provisions of the ordinance of the City of Bellmead in conflict with the provisions of this Ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Bellmead not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 4. That should any sentence, paragraph, 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 decided to be invalid, illegal, or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 5. That an offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Code of Ordinance, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 6. That this Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

PASSED AND APPROVED ON FIRST READING APRIL 9, 2024.

PASSED AND APPROVED ON SECOND READING MAY 14, 2024.

PASSED AND APPROVED ON THIRD AND FINAL READING MAY 14, 2024.

DULY PASSED by the City Council of the City of Bellmead, Texas on this 14 day of May 2024

APPROVED:



MAYOR

ATTEST:



Holly Owens, CITY SECRETARY

APPROVED AS TO FORM AND LEGALITY:



CITY ATTORNEY





Regular 5/14/2024

Item # 13D

CCM/O 2024-04

CITY COUNCIL MEMORANDUM FOR ORDINANCE

Prepared By: Holly Owens

Approval: Yousry Zakhary

Amending Ch. 9 – Health and Human Services

DESCRIPTION:

Consider **Ordinance 2024-04**, amending Chapter 9 – Health and Human Services; Article I. – In General; Sec. 9-4. Definitions; Sec. 9-15. Food Establishment Fees; repealing all ordinances or parts of ordinances in conflict herewith; providing for severability; providing for inclusion in the code; and providing an effective date.

BACKGROUND:

In Sec. 9-4. Definitions, “City of Bellmead personnel as determined appropriate by the City Manager” was added as a regulatory authority for application compliance and inspections from the building inspector and fire marshal.

All fees are listed on the Master Fee Schedule. This ordinance will correct Sec. 9-15, - Food Establishment Fees by referring to the Master Fee Schedule and creating a more uniform Code of Ordinances.

The first reading was held on April 9, 2024. The first reading passed with a vote of 6-0-0.

FISCAL IMPACT / FUNDING SOURCE:

There is no fiscal impact.

STAFF RECOMMENDATION:

Staff recommends approving **Ordinance 2024-04**, amending Chapter 9 – Health and Human Services; Article I. – In General; Sec. 9-4. Definitions; Sec. 9-15. Food Establishment Fees; repealing all ordinances or parts of ordinances in conflict herewith; providing for severability; providing for inclusion in the code; and providing an effective date.

ATTACHMENT(S):

Ordinance 2024-04 Draft and Redlined