

**CITY OF BELLMEAD
ORDINANCE 2023-09**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLMEAD, TEXAS, AMENDING CHAPTER 13 – NUISANCES; CREATING ARTICLE VI. – RODENT CONTROL; SETTING REGULATIONS, PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Bellmead, Texas (“City Council”) has investigated and determined that it would be advantageous and beneficial to the citizens of the City of Bellmead, Texas (“City”) in promoting the public health, safety, and welfare of the citizens by adopting an ordinance regulating rodent control; and,

WHEREAS, the purpose of this created article is to set regulations in assisting in the control and reduction of the rodents within the city through the modification and elimination of conditions which allow for the continued reproduction, colonization, and existence of rodents.

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

SECTION 1

CHAPTER 13 – NUISANCES; ARTICLE III. – GARBAGE, JUNK AND LITTER

Sec. 13-30. - Definitions

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

Brush shall mean the cuttings or trimmings from trees, shrubs or lawns or similar materials.

Garbage shall mean solid waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking and consumption of food, including waste materials from markets, storage facilities, handling and sale of produce and other food products.

Hand bill shall mean any printed or written matter, any sampler or devise, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature.

Junk shall mean all worn out, worthless and discarded material, including odds and ends, old iron, steel or other metals, glass, and plastic.

Litter shall mean garbage, refuse, and rubbish and all other waste material which, if thrown or deposited as prohibited in this article, tends to create a danger to the public health, safety, and welfare, stifle economic development, create unsightly esthetics, or reduce property values.

Sec. 13-31. - Declaration of nuisance

- (a) It shall be unlawful for any owner, lessee, occupant, or any person in charge of any premises in the city to allow brush, garbage, handbills, junk, or litter, as those terms are defined herein, to accumulate upon such premises to such an extent that:
 - (1) Is reasonably calculated to create a fire hazard,
 - (2) Is to be injurious to the health of the citizens of the city,
 - (3) Reduces the property values of adjacent and surrounding properties,
 - (4) Creates unsightly esthetics to the reasonable person, or
 - (5) Creates breeding and living places for insects and rodents as defined in Article VI. This duty shall extend to any sidewalk or parkway abutting the property thereon.
- (b) Any violation of the subdivision is hereby declared to constitute a public nuisance and is subject to the enforcement and penalty provisions as defined in Article X.

SECTION 2

ARTICLE VI. – RODENT CONTROL

Sec. 13-70. – Purpose

The purpose of this article is the control and reduction of rodents within the city through the modification and elimination of conditions which allow for the continued reproduction, colonization, and existence of rodents.

Sec. 13-71. – Definitions

Building means any structure, whether public or private, that is for a residential, office, commercial or industrial use.

Burrow means a below ground nest or harborage for rodents.

Debris means the worthless remains that result from the destruction or breaking down of anything.

Director means the Director of the McLennan County Public Health District. The terms also mean the authorized representative of the director.

Enforcement Officer shall mean director or a designated representative. The term also means a law enforcement officer, code enforcement officer, and/or any representative under the City of Bellmead city manager.

Evidence of rodents means the natural presence of rodent runs, burrows, fecal droppings, rub marks, gnaw marks, tail drag marks, tracks or other signs which may be associated with the presence of rodents, as well as the visual sighting, hearing, smelling, or otherwise sensing of the presence of rodents.

Harborage means any place which provides shelter or protection for rodents, thus favoring their reproduction, presence, or continued existence on the premises.

Occupant means the person who has the use of or occupies any building or any part thereof or who has the use or possession, actual or constructive, of the premises, whether the actual owner or tenant. In the case of vacant buildings or vacant portions of a business building, or in case of occupancy in whole or in part by the owner, the owner of the building shall be deemed to be and shall have the responsibility of an occupant of such building.

Opening means any opening in the foundation, sides of walls, ground or first floor, basement, chimneys, eaves, grills, windows, ventilators, walk grates, elevators of a building, and any pipes, wires, or other installations through which a rodent may enter.

Owner means the person owning the building or premise.

Person means individuals, firms, partnership, associations, public or private institutions, municipalities, political subdivisions of the State of Texas, governmental agencies, and public or private corporations.

Premises means a parcel or real property, including all buildings located thereon.

Rodent means rats and mice in the order Rodentia. This shall include, but is not limited to, rats and mice belonging to the family Muridae (which includes the Norway rat, roof rat, and house mouse) and belonging to the family Cricetidae (which includes the deer mouse, the white footed mouse, and the cotton rat).

Rodent eradication means the elimination or extermination of rodents from premises and from rodent harborages of any kind by measures such as baiting, fumigation, or trapping and, where necessary, rodent proofing such that the premises and rodent harborages are completely freed of rodents, and there is no evidence of rodent infestation remaining.

Rodent proof container shall mean a garbage can or other container reasonably impervious to rodents.

Rodent proofing means to prevent the ingress of rodents into buildings from the exterior or from one building to another. It consists of the closing, with material impervious to rodent gnawing, or all openings in the exterior walls, ground or first floors, basements, roofs, and foundations that may be reached by rodents from the ground by climbing or by burrowing.

Rodent tight condition of sewers means the condition achieved by the construction and maintenance of sewer lines, manholes, and all other parts of the sewer system in such a manner as to prevent rodents from exiting through openings or breaks.

Refuse means material rejected or thrown aside as worthless.

Rub mark means a dark, sometimes greasy mark formed from contact by the rodent's body.

Run means a narrow pathway of beaten earth and vegetation swept clear of debris by the frequent travel of a rodent.

Trash means any accumulation of waste materials no longer of any use, including, but not limited to paper, sweepings, dust, rags, bottles, cans, or cardboard.

Sec. 13-72. – General Provisions

All premises within the city shall be free of rodents and maintained in a rodent-free condition. Rodent harborages shall be eliminated, buildings shall be maintained in a rodent-proof condition, foods and foodstuffs shall be stored and handled to be inaccessible to rodents, and, where rodent infestation is evident, effective measures of rodent eradication shall be instigated by the occupant of the premises or in the absence of an occupant, by the owner.

Sec. 13-73. – Storage and handling of food and foodstuffs

All food for human consumption and feed for animals and fowl shall be stored in rodent-free and rodent-proof containers, compartments, or rooms unless stored in a rodent-free and rodent-proof building. Feed for animals and fowl shall not be left on the ground, on the floor or left in feed pans, trough, and other feeder containers any longer than necessary to feed the animals and fowl unless such feeder equipment is made inaccessible to rodents. Foods for human consumption shall not be left on floors, counters, or otherwise exposed to provide food for rodents. When feeding birds, the feed should be kept at all times on raised platforms which are made inaccessible to rodents. Bird food shall not be placed on the ground when there is evidence of rodents on the premises or on nearby premises.

Sec. 13-74. – Storage and disposal of garbage, refuse, and debris

No person shall place, leave, dump, or permit to accumulate any garbage, refuse, debris, or trash on any premises, alley, or roadway, to afford food or harborage for rodents. All garbage, including dead animals, shall be placed, and stored in rodent-proof containers until collected.

Sec. 13-75. – Rodent harborage.

- (a) Conditions which provide rodent harborage shall not exist on any premises. No person shall accumulate or permit the accumulation of boxes, bottles, cans, containers, junk appliances, or other similar objects which afford rodent harborage.
- (b) When there is evidence of rodents upon premises, the following persons shall be jointly and severally responsible to remove from such premises objects of the type described in the immediately foregoing paragraph, upon request of the enforcement officer:
 - (1) The person who placed such objects upon the premises; and,
 - (2) The occupant of the premises, if the objects are in or on a part of the premises which the occupant occupies or controls; and,
 - (3) The owner of the premises if the owner leased the part of the premises containing such objects with such objects upon the premises, or the objects are in or on a part of the premises which are vacant or occupied by the owner, or the objects are upon a part of the premises which the owner maintains or controls even though the premises are occupied by another.

- (c) When there is evidence of rodents in and around useful materials, such as firewood, lumber, or building material, indicating the presence of a rodent harborage, and the enforcement officer requests, the owner of such useful material shall store them at least 15 inches above ground.

Sec. 13-75. – Rodent proofing

- (a) The owner of any building shall be responsible to rodent-proof that building when evidence of rodents exists in, under, or around said building, and the enforcement officer gives notice to the owner or to the owner's rental agent for the building of said condition. Nothing contained in the foregoing sentence shall bar any right of action the owner of the building may have against the lessee for breach of the lease, but the owner may not plead the terms of any such lease in bar of the owner's responsibility set forth in the foregoing sentence. Methods and materials used for rodent-proofing shall be sufficient to stop the ingress of rodents into buildings from the exterior and from one building to another.
- (b) All buildings shall be maintained free of rodents and in a rodent-free condition.
 - (1) It shall be the responsibility of each and every occupant of a building to maintain that portion of the building which he or she occupies or controls free of rodents and in a rodent-free condition. It shall be an affirmative defense that the occupant has provided the enforcement officer with a current lease agreement with the owner clearly showing that the owner has responsibility for the repairs required to maintain the building in a rodent-free condition.
 - (2) It shall be the responsibility of the owner of a building to maintain free of rodents and in rodent-free condition the unoccupied parts of his or her building, the parts of such building over which a non-owner occupant does not exert control, and the parts of such building which any lease or agreement makes the owner responsible for maintaining.

Sec. 13-76. – Failure to restore rodent proofing materials: new opens to be sealed

No person shall remove rodent-proofing from any building for any purpose and fail immediately thereafter to restore the same in a rodent-proof condition or to make any new openings that are not immediately thereafter closed or sealed against the entrance of rodents.

Sec. 13-77. – Entry for inspection and notice by enforcement officer

- (a) The enforcement officer shall have the right of entry upon any premises where entry is necessary to carry out the provisions of this article. If consent for entry is not given or obtained, an administrative search and inspection warrant shall be obtained. If an imminent hazard exists, no warrant is required for entry upon the premises.
- (b) The enforcement officer shall give notice in writing that generally identifies the problem observed and states the number of days within which the problem must be corrected. The enforcement officer shall normally allow at least seven calendar days for a problem to be

corrected. However, if the problem presents an imminent health hazard to persons occupying or using the building, that time may be reduced.

- (c) If the occupant, owner, or other responsible person receiving said notice needs additional time to correct the problem, at least three days before the end of the time period stated in the notice, he or she must file a written request with the enforcement officer explaining why additional time is needed, stating the amount of time needed, and providing a mailing address and telephone number or email address where he or she may be reached. The enforcement officer may deny the request or allow a different number of additional days. The decision may be made by telephone or email followed by delivery of a written notice of the enforcement officer's decision delivered to the person filing the request either by hand delivery or by mail.

Sec. 13-78. – Health Department action

Where the existence of a rodent population presents an imminent threat to the health of the community, the director is authorized to take action to enforce this ordinance. The director may notify the owner, occupant, or other person responsible for the conditions of actions required to eliminate rodent harborage or other conditions that allow continued reproduction and colonization by rodents. Failure to comply with said notice within 48 hours of receiving said notice shall constitute a violation of this article.

Sec. 13-79. – Notice

Whenever this article provides for notice to be given to a person according to Sec. 13-150. – Notice of violation.

Sec. 13-80. – Penalties

Any person who violates any provision of this article shall be guilty of a class C misdemeanor. Each day the violation exists shall be a separate violation.

SECTION 3

That all provisions of the ordinances 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

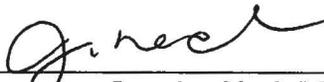
That this Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

PASSED AND APPROVED ON FIRST READING AUGUST 8, 2023.

PASSED AND APPROVED ON SECOND READING SEPTEMBER 12, 2023.

PASSED AND APPROVED ON THIRD AND FINAL READING SEPTEMBER 12, 2023.

THE CITY OF BELLMEAD, TEXAS

BY: 
Jasmine Neal, Mayor

ATTEST:


Holly Owens, City Secretary

APPROVED AS TO FORM AND LEGALITY:


City Attorney





Regular 9/12/2023

Item # 9L

CCM/O 2023-09

CITY COUNCIL MEMORANDUM FOR ORDINANCE

Prepared By: Holly Owens

Approval: Yousry Zakhary

Rodent Control

DESCRIPTION:

Consider **Ordinance 2023-09**; Amending Chapter 13 – Nuisances; Creating Article VI. – Rodent Control; Setting regulations; Providing severability; and providing for an effective date.

BACKGROUND:

The purpose of this created article is to set regulations in assisting in the control and reduction of rodents within the city through the modification and elimination of conditions which allow for the continued reproduction, colonization, and existence of rodents. The first reading was held on August 8, 2023, and was approved unanimously, 6-0. This will be the final reading, if approved it will become effective immediately.

FISCAL IMPACT / FUNDING SOURCE:

There is no fiscal impact or funding source.

STAFF RECOMMENDATION:

Staff recommends approval of **Ordinance 2023-09**; Amending Chapter 13 – Nuisances; Creating Article VI. – Rodent Control; Setting regulations; Providing severability; and providing for an effective date.

ATTACHMENT(S):

Ordinance 2023-09