

ORDINANCE NO. O2021-02

AN ORDINANCE OF THE CITY OF WEATHERFORD, TEXAS, AMENDING CHAPTER 4, OF TITLE VIII OF THE CITY CODE, (FOOD ESTABLISHMENT RULES), REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT, PROVIDING A SAVINGS CLAUSE

WHEREAS, regulations have been established by the Texas Board of Health and the Department of State Health Services as set forth in Texas Administrative Code, Chapter 228 providing for the regulation of retail food sales and food services establishments; and

WHEREAS, it is in the interest of the public health and safety of the citizens of Weatherford that those regulations adopted by the City of Weatherford pursuant to those provisions of the Texas Administrative Code, be current and consistent in order to promote public health and safety in food establishment operations;

WHEREAS, it is necessary to amend the provisions of Title VIII, (Health and Sanitation), Chapter 4 of the City Code of Weatherford to bring the City's ordinance current and consistent with those regulations in order to promote the public health, safety and general welfare of the citizens of Weatherford;

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

Findings of Fact. The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact. The City Council further finds and determines that the rules, regulations, terms, conditions, provisions and requirements of this ordinance are reasonable and necessary to protect and promote the public health, safety and quality of life in the City.

SECTION 1: Amendments to Chapter 4 of Title VIII of the City Code of Weatherford, Texas;

CHAPTER 4. - FOOD ESTABLISHMENT RULES

Sec. 8-4-1. - Adoption of the Texas Food Establishment Rules.

- (a) The City of Weatherford hereby adopts by reference, as if set out verbatim herein, the food establishment rules and regulations set forth at 25 Texas Administrative Code, Chapter 228, as those rules and regulations exist on the date of this ordinance or as those rules and regulations may be hereafter duly amended by the Executive Commissioner of the Texas Health and Human Services Commission. A copy of 25 Texas Administrative Code, Chapter 228, shall be maintained on file in the office of the city secretary and shall also be made available for public inspection on the official website of the city.
- (b) **Definitions:** In this section, the following terms have the meanings set out below:
 - The words "authorized agent or employee" mean the employees of the regulatory authority.

The words "authorized agency" mean a City, County, State or Public Health District authorized by the State of Texas to issue Food Establishment licenses in accordance with state rules.

The words "food establishment" means a food service establishment, a retail food store, a temporary food establishment, a mobile food unit, and/or a roadside food vendor.

The words "municipality of Weatherford" in this ordinance shall be understood to refer to the City of Weatherford.

The words "state rules" mean the state rules found at 25 Texas Administrative Code, Chapter 228. These rules are also known as the Texas Food Establishment Rules.

The words "regulatory authority" means the City of Weatherford Development & Neighborhood Services Department.

Sec. 8-4-2. - Permits and exemptions.

- (a) A person may not operate a food establishment without a permit issued or authorized by the regulatory authority. Permits are not transferable from one person to another or from one location to another location, except as otherwise permitted by this chapter. A valid permit must be posted in or on every food establishment regulated by this chapter.
- (b) A food establishment operated solely by a nonprofit organization is exempt from the permitting requirements of this chapter, but is not exempt from compliance with state rules. The regulatory authority may require any information necessary to determine whether an organization is nonprofit for purposes of this exemption.
- (c) A temporary or mobile food establishment with a valid permit and inspection by an authorized agency in the State of Texas. Shall complete an application provided by the regulatory authority providing documented proof of their valid permit from another valid jurisdiction and proof of (1) one initial inspection upon initial permit application or two (2) inspections upon renewal within the last 365 days. A valid inspection is from any City, County, State or Public health District authorized and licensed to perform food establishment inspections in the State of Texas. A valid permit must be posted in or on every food establishment regulated by this chapter. There will be no fee associated with applications for temporary or mobile food establishments that have valid permit and inspection by an authorized agency in the State of Texas.

Sec. 8-4-3. - Application for permits and fees.

- (a) Any person desiring to operate a food establishment must make a written application for a permit on forms provided by the regulatory authority. The application must contain the name and address of each applicant, the location and type of the proposed food establishment and the applicable fee. An incomplete application will not be accepted. Failure to provide all required information, or falsifying information required may result in denial or revocation of the permit. Renewals of permits are required once every two years due on February 1st of even numbered years and the same information is required for a renewal permit as for an initial permit. Applications submitted between permitting periods (within six [6] months before or after February 1st) will have their fee adjusted to either add or decrease the necessary amount of time (typically in six [6] month increments) to align with the next renewal at an even year February 1st.

- (b) Prior to the approval of an initial permit or the renewal of an existing permit, the applicant shall provide the regulatory authority with an inspection report. A valid inspection is from any City, County, State or Public health District authorized and licensed to perform food establishment inspections in the State of Texas or schedule an inspection by the regulatory authority of the proposed food establishment to determine compliance with state laws and rules. A food establishment that does not comply with state laws and rules will be denied a permit or the renewal of a permit.
- (c) A fee schedule shall be adopted from time to time by minute order of the city council and shall apply to all permits issued under this chapter.

Sec. 8-4-4. - Review of plans.

- (a) Whenever a food establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food establishment, properly prepared plans and specifications for such construction, remodeling or conversion shall be submitted to regulatory authority for review before work is begun. Extensive remodeling means that 20 percent or greater of the area of the food establishment is to be remodeled. The plans and specifications shall indicate the proposed layout, equipment arrangement, mechanical plans and construction of materials of work areas, and the type and model of proposed layout, equipment arrangement, mechanical plans and construction of materials of work areas, and the type and model of proposed fixed equipment and facilities. The plans and specifications will be approved by the regulatory authority if they meet the requirements of the rules adopted by this ordinance. The approved plans and specifications must be followed in construction, remodeling or conversion.
- (b) Failure to follow the approved plans and specifications will result in a permit denial, suspension, or revocation.

Sec. 8-4-5. - Suspension of permit.

- (a) The regulatory authority may, without warning, notice, or hearing suspend any permit to operate a food establishment if the operation of the food establishment constitutes an imminent hazard to public health. Suspension is effective upon service of the notice required by subsection (b) of this section. When a permit is suspended, food operations shall immediately cease. Whenever a permit is suspended, the holder of the permit shall be afforded an opportunity for a hearing with 20 days of receipt of a request for a hearing.
- (b) Whenever a permit is suspended, the holder of the permit or person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the regulatory authority by the holder of the permit within ten days. If no written request for hearing is filed within ten days, the suspension is sustained. The regulatory authority may end the suspension at any time if reasons for suspension no longer exist.

Sec. 8-4-6. - Revocation of permit.

- (a) The regulatory authority may, after providing opportunity for a hearing, revoke a permit for serious or repeated violations of any of the requirements of these rules or for interference with

the regulatory authority in the performance of its duties. Prior to revocation, the regulatory authority shall notify the holder of the permit or person in charge, in writing, of the reason for which the permit is subject to revocation and that the permit shall be revoked at the end of the ten days following service of such notice unless a written request for a hearing is filed with the regulatory authority by the holder of the permit within such ten-day period.

- (b) If no request for hearing is filed within the ten-day period, the revocation of the permit becomes final.

Sec. 8-4-7. - Administrative process.

- (a) A notice as required in these rules is properly served when it is delivered to the holder of the permit or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit. A copy of the notice shall be filed in the records of the regulatory authority.
- (b) The hearings provided for in these rules shall be conducted by the regulatory authority at a time and place designated by it. Based upon the recorded evidence of such hearing, the regulatory authority shall make final findings, 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 holder of the permit by the regulatory authority.

Sec. 8-4-8. - Remedies.

- (a) Any person who violates a provision of these rules and any person who is the permit holder of or otherwise operates a food service establishment that does not comply with the requirements of these rules and any responsible officer of that permit holder or those persons shall be punishable by a fine not to exceed \$1,000.00 for all cases involving public health and sanitation and such fine shall not exceed \$500.00 in all other cases. A person commits a separate offense and distinct offense for each day or portion thereof during which any violation of the provisions of this chapter is continued or permitted.
- (b) The regulatory authority may seek to enjoin violations of these rules.

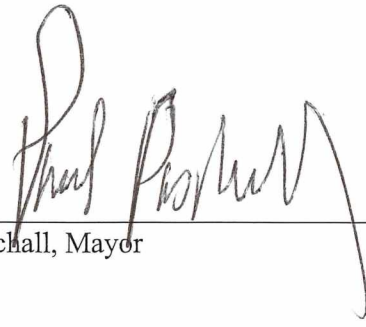
SECTION 2: All ordinances and parts of ordinances in conflict with this ordinance shall and the same are hereby repealed to the extent of said conflict only.

SECTION 3: If any section, subsection, paragraph, sentence, clause, phrase or word of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such holding shall not affect the validity of the remaining portion of this ordinance, and the City Council hereby declares that it would have passed such remaining portions despite such invalidity or unconstitutionality.

SECTION 4: This ordinance shall take effect immediately after its passage and publication in accord with the provisions on the Texas Local Government Code.

The foregoing ordinance was introduced, read, approved, passed and adopted by a vote of 5 ayes and 0 nays by the City Council of the City of Weatherford, Texas, at its meeting on the 12th day of JANUARY 2021.

CITY OF WEATHERFORD, TEXAS



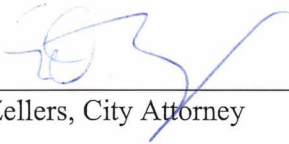
Paul Paschall, Mayor

ATTEST:



Malinda Nowell, City Secretary

APPROVED AS TO FORM:



Ed Zellers, City Attorney