

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LEON VALLEY, TEXAS, AMENDING CHAPTER 6 HEALTH AND SANITATION, ARTICLE 6.02 FOOD AND FOOD ESTABLISHMENTS OF THE LEON VALLEY CODE OF ORDINANCES, TO UPDATE FOOD STORE AND FOOD ESTABLISHMENT REGULATIONS; PROVIDING FOR REPEALER, PENALTY, SEVERABILITY AND SAVINGS CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Leon Valley is committed to the preservation of the public's health, safety, and welfare; and

WHEREAS, Chapter 6 Health and Sanitation, Article 6.02 Food and Food Establishments of the Leon Valley Code of Ordinances has not been updated to reflect current food service regulations, and the city has been advised by the Health and Sanitation Inspector that portions of that Chapter should be amended to adopt current regulations; and

WHEREAS, food establishment and store regulations exist primarily to protect public health by preventing foodborne illnesses and ensuring food safety, but also to maintain consumer confidence and support fair business practices; and

WHEREAS, good regulations control factors like food handling, preparation, storage, and labeling to safeguard against contamination and ensure products are safe for consumption; and

WHEREAS, food establishment rules and regulations also provide legal and economic stability for businesses by preventing fines and closures, promoting confidence in the food supply, and creating a consistent standard for all establishments;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEON VALLEY, TEXAS THAT:

Section 1. Amendment. Code of Ordinances Chapter 6, Health and Sanitation, Article 6.02 is hereby amended as revised by attachment hereto designated as **Exhibit "A"** and incorporated by reference herein for all purposes.

Section 2. Recitals. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. Conflicts. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 4. Savings. That all rights and privileges of the City are expressly saved as to any and all violations of the provision of any ordinances repealed by this ordinance which have accrued at the time of the effective date of this Ordinances; and, as to such

accrued violation 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 5. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 6. TOMA compliance. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 7. Penalty. A violation of the Leon Valley specific portions of this ordinance is a Class C misdemeanor punishable by a fine not to exceed \$2,000. After the second violation a temporary suspension of the business certificate of occupancy may occur.

Section 8. Effective date. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

PASSED, ADOPTED, AND APPROVED by the City Council of the City of Leon Valley this the 18th day of November, 2025.

APPROVED

CHRIS RILEY
MAYOR

Attest:

SAUNDRA PASSAILAIGUE, TRMC
City Secretary

Approved as to Form:

ARTURO D. 'ART' RODRIGUEZ
City Attorney

Exhibit "A"

**Amending Chapter 6 Health and Sanitation
Article 6.02 Food and Food Establishments**

Note: Stricken texts in red are the sections to be removed. Text in blue are to be added.

Sec. 6.02.001 State ~~retail food store sanitation~~ code adopted

~~The definitions, the inspection of food service establishments, the issuance, suspension and revocation of permits (licenses) to operate food service establishments, the prohibiting of the sale of unsound or mislabeled food or drink, and the enforcement of this Code shall be regulated in accordance with the department of state health services, division of food and drugs, Retail Food Store Sanitation Code, 1985 edition, a certified copy of which shall be on file in the office of community development (which outlines procedures for obtaining a permit or license to operate a retail food store, or a retail food store in conjunction with a food service establishment), except when in conflict with other provisions of this Code, and provided that the words "regulatory authority" shall be understood to refer to the health and sanitation officer.~~

The City of Leon Valley adopts by reference the provisions of the current rule or rules as amended by The Executive Commissioner of the Health and Human Services Commission found in 25 Texas Administrative Code, Chapter 228, regarding the regulation of food establishments in this jurisdiction except when in conflict with other provisions of this Code.

~~Sec. 6.02.002 State rules on food service sanitation adopted~~

~~The definitions, the inspection of food service establishments, the issuance, suspension and revocation of permits (licenses) to operate food service establishments, the prohibiting of the sale of unsound or mislabeled food or drink, and the enforcement of this section shall be regulated in accordance with the department of state health services, division of food and drugs, Rules on Food Service Sanitation, sections 301.73.11.001—.011, a certified copy of which shall be on file in the office of community development, except when in conflict with other provisions of this Code, and provided that the words "regulatory authority" shall be understood refer to the health and sanitation officer, and that the "Compliance Procedures" attached to Ordinance 1445 be substituted for rule .011 of the Rules on Food Service Sanitation.~~

Sec. 6.02.00~~3~~2 Definitions of food establishments

- "Authorized agent or employee" means the employees of the regulatory authority.
- "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.
- "Municipality of Leon Valley " in this ordinance shall be understood to refer to the City of Leon Valley.
- "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.
- "Regulatory authority" means the Health and Sanitation Officer of the City of Leon Valley.

These definitions are in addition to the definitions listed in 25 Texas Administrative Code, Chapter 228, ~~the Retail Food Store Sanitation Code~~, adopted in section 6.02.001.

Sec. 6.02.00~~4~~3 Licenses, Permits, and Exemptions

(a) The annual license fees to cover the cost of inspection of such food service establishments shall be paid in advance upon issuance of such licenses as set forth in the fee schedule in Appendix A of the Leon Valley Code of Ordinances as amended or revised by ordinance from time to time.

~~(b) Upon initial payment of such license fees, the proprietor of each such food establishment shall be required to purchase a copy of the rules of food service establishments, including the "Compliance Procedures" (attachment A to Ordinance 1445) (reference the schedule of fees in appendix A of this Code as amended or revised by ordinance from time to time), and shall be required to receipt in writing therefor. Licenses shall be signed by the development coordinator and attested by the issuing administrative officer.~~ Food Licenses shall expire on the thirty-first day of December in the year when issued. The fees for annual licenses issued on or after February 1 each year shall be prorated, but no annual license shall be issued on and after November 1 each year, and monthly licenses shall thereafter be the license of greatest duration granted for the balance of said year.

(c) Temporary food licenses are valid for a period of thirty (30) days from date of issue.

(d) A person may not operate a food establishment without a license or permit issued by the regulatory authority. Licenses and permits are not transferable from one person to another or from one location to another location, except as otherwise permitted by this ordinance. A valid license or permit must be posted in or on every food store or establishment regulated by this ordinance.

(e). A food store or establishment operated solely by a nonprofit organization is exempt from the permitting requirements of this ordinance but 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.

(f) 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 on an annual basis, and the same information is required for a renewal permit as for an initial permit.

(g) Prior to the approval of an initial permit or the renewal of an existing permit, the regulatory authority shall inspect 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.

Sec. 6.02.0054 Health and sanitation officer

The terms of this article shall be enforced by a health and sanitation officer, any assistant health inspectors that may be appointed, and the city health officer. All references in the provisions adopted in this article to the director of public health and other officials shall be construed to mean their counterparts as set out above.

~~Sec. 6.02.006 Inspection of meat and meat products~~

~~No person may sell, offer for sale, or have in his possession with intent to sell, store, or transport for sale any meat, meat products, or prepared meals and dishes consisting of or containing meat of any kind capable of being used for food for human consumption unless such meat or product has been inspected and passed for human consumption by a qualified agency of a state health department or agricultural department or under the supervision or control of the U.S. Department of Agriculture, Meat Inspection Division, and is so marked by the official "inspected and passed" legend or its legal equivalent.~~

~~Sec. 6.02.007 Employment of infected persons~~

~~No person, firm, corporation, or organization operating or managing any public eating place or any place where food or drink is manufactured, processed, prepared, dispensed, or otherwise handled in such manner or under such circumstances as would permit probable transmission of disease from any handler thereof to the consumer shall employ or work any person to handle such products, or utensils, dishes, or serving implements used in connection therewith, who is infected with any transmissible condition of any disease known to be normally communicable through the handling of food or drink.~~

~~Sec. 6.02.008 Handling of food and drink by infected persons~~

~~No person infected with a disease, the condition of which is transmissible to another through the handling of food or drink, or who resides in a household with a transmissible case of a communicable disease which may be food borne, or who is known to be a carrier of the organisms causing such disease, and no person having a local infection transmissible through food or drink, shall be employed at any place or vehicle in which food or drink is manufactured, processed, prepared, or dispensed; nor shall any such person at any time handle any food or drink or utensils, dishes, or serving implements used in connection therewith which may be directly or indirectly for public sale or offered for the use or consumption of another.~~

Section 6.005 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 the regulatory authority for review before work is begun. Extensive remodeling means that 20% 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 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.

Section 6.006 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 the service required by Section 6.007 (b) of this ordinance. 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 within twenty (20) days of receipt of a request for a hearing.

(b) Whenever a permit is suspended, the holder of the permit or the 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.

Section 6.007 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 the 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.

Section 6.008 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.

Section 6.09 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 fined as per code.

(b) The regulatory authority may seek to enjoin violations of these rules.