

AN ORDINANCE BY THE BOARD OF COUNTY COMMISSIONERS OF PASCO COUNTY, FLORIDA AMENDING CHAPTER 50 OF THE PASCO COUNTY CODE OF ORDINANCES HEALTH AND SANITATION BY ADDING PROVISIONS TO ALLOW PATRON'S DOGS WITHIN CERTAIN OUTDOOR PORTIONS OF PUBLIC FOOD SERVICE ESTABLISHMENTS; PROVIDING FOR APPLICABILITY, REPEALER, SEVERABILITY, INCLUSION IN THE PASCO COUNTY CODE OF ORDINANCES, AND AN EFFECTIVE DATE.

WHEREAS, Section 509.233, Florida Statutes, grants the governing body of a local government the ability to establish, by ordinance, a local exemption procedure to allow patrons' dogs within certain designated outdoor portions of public food service establishments; and

WHEREAS, the Pasco County Board of County Commissioners desires to provide a permitting process consistent with state law to allow public food service establishments the ability to obtain a permit to allow patron's dogs in outdoor areas.

NOW THEREFORE BE IT ORDAINED by the Board of County Commissioners of Pasco County, Florida, that:

SECTION 1. AUTHORITY

This Ordinance is enacted pursuant to Sections 125.01 and 509.233, Florida Statutes (2017) and under home rule powers of the County.

SECTION 2. RECITALS.

The foregoing Whereas Clauses are true and accurate and are incorporated by reference and made part of this Ordinance.

SECTION 3. Chapter 50 Health and Sanitation, Article IV Restaurants, Section 50-193, of the Pasco County Code of Ordinances, is hereby amended as follows:

Sec. 50-193. Premises

- (f) Animals. Except as permitted in Section 50-194, live animals, including birds and turtles, shall be excluded from within the food service operational premises and from adjacent areas under the control of the permit holder. This exclusion does not apply to edible fish, crustacea, shellfish or to fish in aquariums. Patrol dogs accompanying security or police officers or guide dogs accompanying blind persons service animals accompanying a person with a disability shall be permitted in dining areas.

SECTION 4. A New Section 50-194, Pasco County Code of Ordinances, entitled Outdoor Dog Dining is hereby created as follows:

Sec.50-194. - Outdoor Dog Dining

(a) Purpose. Section 509.233, Florida Statutes, grants the County the authority to provide exemptions from Section 6-501.115, 2001 Food and Drug Administration Food Code, as adopted and incorporated by the Division of Hotels and Restaurants ("Division") in Rule 61C-4.010(6), Florida Administrative Code ("Food Code"). The purpose of this section is to allow patron's dogs within certain outdoor portions of public food service establishments. The procedure adopted pursuant to this section provides an exemption, for those public food service establishments which have applied for and received a permit, to those sections of the Food Code that prohibit live animals in public food service establishments.

(b) Permit Required. No dog, except as permitted in Sec. 50-193, shall be allowed in a public food service establishment unless allowed by state law or the public food service establishment has received and maintains an unexpired permit issued by the County pursuant to this Section. Dogs shall only be authorized in a designated outdoor dining area. It shall be unlawful to fail to comply with any of the requirements of this Section.

(c) Compliance.

- (1) A permit application may be denied if the food service establishment has failed to obtain proper permits in accordance with the Pasco County Code of Ordinances or Pasco County Land Development Code for any applicable outdoor seating areas.
- (2) A permit application may be denied if the food service establishment fails to comply with the application requirements set forth in this section.
- (3) AU denials of a permit application shall be given in writing.

(d) Application Requirements.

Public food service establishments must apply for and receive a permit from the County before patrons' dogs are allowed on the premises. The County shall establish a reasonable fee to cover the cost of processing the initial application. The application for a permit shall require such information from the applicant as is deemed reasonably necessary to enforce the provisions of this Section. The application shall require, at a minimum, all of the following information:

- (1) Name, location, mailing address and Division issued license number of the public food service establishment.
- (2) Name, mailing address, and telephone contact information of the permit applicant. Name, mailing address, and telephone contact information of the owner of the public food service establishment shall be provided if the owner is not the permit applicant.

- (3) A diagram and description of the outdoor area which is requested to be designated as available to patrons' dogs, including dimensions of the designated area: a depiction of the number and placement of tables, chairs, and restaurant equipment, if any: the entryways and exits to the designated outdoor area: the boundaries of the designated area and of the other outdoor dining areas not available for patrons' dogs: any fences or other barriers: surrounding property lines and public rights-of-way, including sidewalks and common pathways: and such other information as is deemed necessary by the County.
- (4) The diagram shall be accurate and to scale but need not be prepared by a licensed design professional. A copy of the approved diagram shall be attached to the permit.
- (5) A description of the days of the week and hours of operation that patrons' dogs will be permitted in the designated outdoor area.

(e) Regulations.

Public food service establishments that receive a permit for a designated outdoor area pursuant to this section shall require that:

- {1) All public food service establishment employees shall wash their hands promptly after touching, petting, or otherwise handling dogs. Employees shall be prohibited from touching, petting, or otherwise handling dogs while serving food or beverages or handling tableware or before entering other parts of the public food service establishment.
- (2) Patrons in a designated outdoor area shall be advised that they should wash their hands before eating. Waterless hand sanitizer shall be provided at all tables in the designated outdoor area.
- (3) Employees and patrons shall be instructed that they shall not allow dogs to come into contact with serving dishes, utensils, tableware, linens, paper products, or any other items involved in food service operations.
- (4) Patrons shall keep their dogs on a leash at all times and shall keep their dogs under reasonable control.
- (5) Dogs shall not be allowed on chairs, tables, or other furnishings. Dogs must remain on the floor/ground level and shall not be permitted in the lap of the patron.
- (6) All table and chair surfaces shall be cleaned and sanitized with an approved product pursuant to the U.S. Department of Health and Human Services Food Code between seating of patrons. Employees shall remove all dropped food and spilled drink from the floor or ground as soon as possible but in no event less frequently than between seating of patrons at the nearest table.
- (7) Employees or patrons shall remove all dog waste immediately and the floor or ground shall be immediately cleaned and sanitized with an approved product.

Employees shall keep a kit with the appropriate materials for this purpose in the designated outdoor area.

- (8) A sign or signs informing employees of these requirements shall be posted on the premises in a conspicuous manner that places the employees on notice.
- (9) A sign or signs informing patrons of these requirements shall be posted on premises in a conspicuous manner that places the public on notice.
- (10) A sign or signs notifying the public that the designated outdoor area is available for the use of patrons and patrons' dogs shall be posted in a conspicuous manner that places the public on notice.
- {11} Employees and patrons shall not permit dogs to be in, or to travel through indoor or nondesignated outdoor portions of the public food service establishment, and ingress and egress to the designated outdoor portions of the public food service establishment must not require entrance into or passage through any indoor area of the food establishment.
- {12} Employees and patrons shall not allow any dog to be in the designated outdoor areas of the public food service establishment if the public food service establishment is in violation of any of the requirements of this Section, or if they do not possess a valid permit.
- (13) Permits shall be conspicuously displayed in the designated outdoor area.

m Expiration, Revocation, and Appeals.

- (1) A permit issued pursuant to this Section shall expire automatically upon the sale of the public food service establishment and cannot be transferred to a subsequent owner. The subsequent owner may apply for a permit pursuant to this Section if the subsequent owner wishes to continue to allow patrons' dogs in a designated outdoor area of the public food service establishment.
- (2) A permit may be revoked by the County if, after notice and reasonable time in which the grounds for revocation may be corrected, the public food service establishment fails to comply with any condition of approval, fails to comply with the approved diagram, fails to maintain any required state or local license, or is found to be in violation of any provision of this Section. If the ground for revocation is a failure to maintain any required state or local license, the revocation may take effect immediately upon giving notice of revocation to the permit holder.
- (3) If a public food service establishment's permit is revoked, no new permit may be approved for the establishment until all issues identified within the revocation have been satisfied. This includes any outstanding fines.
- (4) Any applicant denied a permit pursuant to this Section, or any permit holder whose permit is revoked, may appeal the denial or revocation to the Board of County Commissioners.

a. An appeal must be filed, and an appeal fee paid, with the Planning and Development Department within 30 days of the date of the final, written decision to be appealed. Any appeal not timely filed, or any appeal fee not paid within 30 days shall result in a waiver of the right to appeal. The Board of County Commissioners shall hear the appeal. The hearing shall occur within 60 days of the receipt of the appeal, unless waived by the applicant, and a written decision shall be rendered within 30 days of the hearing. The appeal is not a public hearing and is not required to be publicly noticed. All other provisions in Section 407.1 of the Pasco County Land Development Code shall apply to the appeal, except when in conflict with the procedures or provisions otherwise specified in the section.

b. Nothing in this section shall affect or limit the remedies the county has available under applicable law.

(g) Complaints and reporting.

- (1) Complaints may be made in writing to the Planning and Development Department who shall accept, document, and respond to all complaints and shall timely report to the Division all complaints and the response to such complaints.
- (2) The County shall provide the Division with a copy of all approved applications and permits issued.
- (3) All applications, permits, and other related materials shall contain the Division issued license number for the public food service establishment.
- (4) The patron or the designated person in charge of the public food service establishment, or both, may be issued civil citations for each violation of this ordinance.

(h) Violations.

It shall be a violation of this ordinance for a food service provider to:

- (1) Fail to comply with the regulations set forth in paragraph e. of this Section: or
- (2) Fail to obtain a permit prior to allowing patrons' dogs on the property: or
- (3) Fail to display the permit in accordance with paragraph e. of this Section.

(i) Penalties.

Any person who is found to be in violation of any provision of this ordinance may be issued a citation punishable by a fine not to exceed \$500.00. Each day a violation of a provision of this ordinance exists and each action in violation of a provision of this ordinance shall constitute a separate offense. Each instance of a dog on the premises of a public food service establishment without a permit is a separate violation.

Issuance of a citation does not preclude an action for injunction or any other legal remedy available to Pasco County. Nothing herein shall prevent any person from exercising any right or seeking any private remedy or redress to which one might otherwise be entitled, or from filing any complaint with any other agency. Nothing in this Ordinance shall be construed to exempt or limit compliance by any person with State and Federal laws, rules and regulations related to persons with disabilities. Violation of such laws, rules, and regulations may be prosecuted as applicable by the appropriate state and federal authorities.

SECTION 5. APPLICABILITY.

This Ordinance shall be applicable in the unincorporated areas of Pasco County.

SECTION 6. REPEALER.

Any ordinance, or part of any ordinance, in conflict herewith is hereby repealed to the extent of any conflict.

SECTION 7. SEVERABILITY

It is declared to be the intent of the Board of County Commissioners of Pasco County, Florida, that if any section, subsection, sentence, clause, or provision of this Ordinance shall be declared invalid, the remainder of this Ordinance shall be construed as not having contained said section, subsection, sentence, clause, or provision and shall not be affected by such holding.

SECTION 8. INCLUSION IN THE CODE OF ORDINANCES.

It is the intent of the Board of County Commissioners of Pasco County, Florida, that the provisions of this Ordinance shall become and be made a part of the Pasco County Code of Ordinances.

SECTION 9. EFFECTIVE DATE.

This Ordinance shall be transmitted to the Department of State by the Clerk to the Board by

electronic mail within ten (10) days after adoption of this Ordinance, and this Ordinance shall take effect upon confirmation by the Department of State of its receipt.

ADOPTED with a quorum present and voting this _____ day of _____, 2017.

(SEAL)

**BOARD OF COUNTY COMMISSIONERS
OF PASCO COUNTY, FLORIDA**

ATTEST:

**By: _____
PAULA O'NEIL, Ph.D
CLERK & COMPTROLLER**

**By: _____
CHAIRMAN**