

ORDINANCE #2017-2102

AN ORDINANCE OF THE CITY OF NEW PORT RICHEY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE BY AMENDING CHAPTER 7, ZONING, BY ADDING SECTION 7.26.00 THERETO; PROVIDING FOR DESIGNATED AREAS FOR DOGS IN OUTDOOR SEATING AREAS IN PUBLIC FOOD SERVICE ESTABLISHMENTS; PROVIDING FOR PERMITTING AND APPLICATIONS; PROVIDING FOR RESTRICTIONS; PROVIDING FOR COMPLAINTS AND REPORTING; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 509.233, Florida Statutes allows local governments to provide exemptions from the regulations prohibiting animals in food service areas within public food service establishments;

WHEREAS, Section 509.233, Florida Statutes allows patrons' dogs to be within designated, permitted areas within public food service establishments in accordance with the requirements established therein;

WHEREAS, public food service establishments in the City have outdoor seating areas where the presence of dogs in a controlled environment is consistent with the use of such areas;

WHEREAS, the City Council hereby finds that this Ordinance is in the best interest of the health, safety and welfare of the City.

NOW, THEREFORE THE CITY OF NEW PORT RICHEY, FLORIDA HEREBY ORDAINS:

SECTION I. Chapter 7 of the Land Development Code, Zoning, is hereby amended to add Section 7.26.00 thereto, pertaining to exemption of dogs in outdoor dining areas, as follows (new matters are underlined):

**Sec. 7.26.00 - Exemption for Dogs in Outdoor Dining Areas.**

**7.26.01 Purpose.**

Section 509.233, Florida Statutes grants the City the authority to provide exemptions from the Food and Drug Administration Food Code, as adopted and incorporated by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation ("division") in the Florida Administrative Code. The purpose of this section is to allow patron's dogs within certain designated outdoor portions of public food service establishments, as that term is defined in Chapter 509, Florida Statutes. The procedure adopted pursuant to this section provides an exemption, for those public food service establishments which have received a permit, to those sections of the Food and Drug Administration Food Code that prohibit live animals in public food service establishments.

**7.26.02 Permit Required.**

No dog 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 City 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. Each instance of a dog on the premises of a public food service establishment without a permit is a separate violation.

#### 7.26.03 Outdoor dining area defined.

An outdoor dining area shall consist of any area outside a fully enclosed building (either on private property or on an approved sidewalk café pursuant to Sections 7.11.14 through 7.11.20) where chairs, benches, tables or other accommodations are provided for customers of any business licensed and operated as a public food service establishment.

#### 7.26.04 Application requirements.

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

- A. Name, location, mailing address and division issued license number of the public food service establishment;
- B. Name, mailing address, and telephone contact information of the permit applicant. The 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. The permit applicant shall provide authorization from the business owner and the property owner, if they are not the same as the permit applicant;
- C. 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; the diagram shall be accurate and to scale but need not be prepared by a licensed design professional; 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 barriers; surrounding property lines and public rights-of-way, including sidewalks and common pathways; and such other information as is deemed necessary by the City;
- D. A copy of the approved diagram shall be attached to the permit; and
- E. A description of the days of the week and hours of operation that patrons' dogs will be permitted in the designated outdoor area.

#### 7.26.05 Regulations.

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

- A. Employees shall wash their hands promptly after touching, petting, or otherwise handling any dog(s) and shall wash their hands before entering other parts of the public food service establishment from the designated outdoor area;
- B. Employees are prohibited from touching, petting or otherwise handling any dog while serving or carrying food or beverages or while handling or carrying tableware;
- C. 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;

- D. Patrons shall keep their dogs on a leash at all times and shall keep their dogs under reasonable control;
- E. Employees and patrons shall be instructed that they are not to allow dogs to come into contact with serving dishes, utensils, tableware, linens, paper products, or any other items involved with food service operations;
- F. Employees and patrons shall not allow any part of a dog to be on chairs, tables, or other furnishings;
- G. Employees shall clean and sanitize all table and chair surfaces with an approved product between seating of patrons;
- H. 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;
- I. Employees and 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 near the designated outdoor area;
- J. Employees and patrons shall not permit dogs to be in, or to travel through, indoor or non-designated outdoor portions of the public food service establishment;
- K. 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;
- L. A sign or signs informing patrons of these laws shall be posted on the premises in a manner and place as determined by the City;
- M. A sign or signs informing employees of these laws shall be posted on the premises in a manner and place as determined by the City;
- N. Ingress and egress to the designated outdoor area shall not require or allow entrance into or passage through any indoor area or non-designated outdoor portions of the public food service establishment;
- O. The public food service establishment and designated outdoor area shall comply with all permit conditions and the approved diagram;
- P. Employees and patrons shall not allow any dog to be in the public food service establishment if the public food service establishment is in violation of any of the requirements of this section; and
- Q. Permits shall be conspicuously displayed in the designated outdoor area.

#### 7.2.6.06 Expiration and revocation of permits.

The following shall apply to permits issued under this section:

- A. 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; and

- B. A permit may be revoked if, after notice, 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.

7.26.07 Complaints and reporting.

The following shall apply to the handling of complaints of violations of this section and making reports to the division:

- A. Complaints of violations of this section may be made by any person to the City Code Enforcement Department, which shall accept, document, and respond to all complaints and shall timely report to the division all complaints and the response to such complaints;
- B. The City's Development Department shall provide the division with a copy of all approved applications and permits issued; and
- C. All applications, permits, and other related materials shall contain the division-issued license number for the public food service establishments.

SECTION II. If any phrase or portion of this Ordinance, or the particular application thereof, shall be held invalid or unconstitutional by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases and their application shall not be affected thereby.

SECTION III. It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall be codified and made a part of the New Port Richey City Code, and that the sections of this Ordinance may be renumbered to accomplish such codification, and that the word Ordinance may be changed to "section" to accomplish such codification.

SECTION IV. This Ordinance shall become effective immediately upon its adoption.

The above and foregoing Ordinance was read and approved on first reading at duly convened meeting of the City Council of the City of New Port Richey, Florida this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

The above and foregoing Ordinance was read and approved on second reading at duly convened meeting of the City Council of the City of New Port Richey, Florida this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

ATTEST

CITY OF NEW PORT RICHEY, FLORIDA

(SEAL)

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Judy Meyers, City Clerk

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Rob Marlowe, Mayor - Councilmember

APPROVED AS TO LEGAL FORM AND CONTENT BY

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Timothy P. Driscoll, City Attorney