

**ORDINANCE NO. 45 –2017**

**AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS RELATING TO DOG-FRIENDLY DINING; SPECIFICALLY AMENDING CHAPTER 28 “ZONING” ARTICLE I “GENERAL PROVISIONS”, SPECIFICALLY CREATING SECTION 28-19, “DOG-FRIENDLY DINING”; ALLOWING PATRONS’ DOGS AT CERTAIN OUTDOOR PORTIONS OF PUBLIC FOOD SERVICE ESTABLISHMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR INCORPORATION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 509 Florida Statutes requires that State of Florida, Division of Hotels and Restaurants (the “Division”) of the Department of Business and Professional Regulation carry out all laws and rules relating to the inspection and regulation of public food service establishments for the purpose of safeguarding the public health, safety and welfare; and,

**WHEREAS**, Section 509.13(5), Florida Statutes, defines “public food service establishment” as “any building, vehicle, place or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption;”; and

**WHEREAS**, Section 509.032, Florida Statutes, requires the Division to adopt and enforce such rules as are necessary to ensure the protection of the public from food-borne illness in public food service establishments; and

**WHEREAS**, Section 509.233, Florida Statutes, permits public food service establishments to become exempt from certain portions of the Food Code, as adopted by the Division, in order to allow patrons’ dogs within certain designated outdoor portions of their respective establishments; and

**WHEREAS**, the City Council adopted dog-friendly dining provisions in Ordinance 2-2009, as amended by Ordinance 31-2009, which were originally codified as Section 59-270; and

**WHEREAS**, during the update of the Land Development Code, the previously adopted dog-friendly dining provisions of Section 59-270 were inadvertently deleted from the Code; and

**WHEREAS**, the City Council desires to correct the error by re-adopting dog-friendly dining provisions as set forth herein.

**NOW, THEREFORE, BE IT ENACTED** by the City of Titusville, Florida as follows:

**Section 1.** That Chapter 28, “Zoning”, Article I “General Provisions”, of the Code of Ordinances and Land Development Regulations of the City of Titusville, is hereby amended by adding a section to be numbered Section 28-19 “Dog-Friendly Dining” which section reads as follows:

Sec. 28-19. - Dog-friendly dining.

- (a) *Purpose and Intent.* The purpose and intent of this section is to implement 509.233, Florida Statutes, by permitting public food service establishments in the City of Titusville, subject to the terms of this ordinance [section], to become exempt from certain portions of the Food and Drug Administration Food Code, as adopted by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, in order to allow patrons' dogs within certain designated outdoor portions of their respective establishments.
- (b) *[Exemption created.]* Pursuant to Section 509.233(2), Florida Statutes there is hereby created in the City of Titusville, Florida, a local exemption procedure to certain provisions of the Food and Drug Administration Food Code, in order to allow patrons' dogs within certain designated outdoor portions of public food service establishments.
- (c) *Definitions.* For use in application of this section, the following definitions shall apply:
  - (1) *Public food service establishment* means any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption as defined in Section 509.013, Florida Statutes.
  - (2) *Dog* means an animal of the subspecies *Canis lupus familiaris*.
  - (3) *Patron* means "guest" as set forth in Section 509.013, Florida Statutes.
  - (4) *Outdoor area* means an area adjacent to a public food service establishment that is predominantly or totally free of any physical barrier on all sides and above.
  - (5) *Division* means the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.
- (d) *Permit Required; Submittals:*
  - (1) In order to allow patrons' dogs on their premises, a public food service establishment shall secure a valid permit issued in accordance with this subsection. The City Manager or designee is authorized to issue permits consistent with this section.
  - (2) Applications for a permit under this subsection shall be made to the City Manager or designee, on a form provided for such purpose, and shall include, along with any other such information deemed reasonably necessary by the City Manager or designee, in order to implement and enforce the provisions of this subsection, the information required by Section 509.233(4) (b) Florida Statutes 2006, including but not limited to:
    - i. The name, location, and mailing address of the public food service establishment;
    - ii. The name, mailing address, and telephone contact information of the permit applicant;
    - iii. A diagram and description of the outdoor area 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 other areas of outdoor dining 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 reasonably required by the City Manager or designee. The diagram or plan shall be accurate and to scale but need not be prepared by a licensed design professional;

- iv. A description of the days of the week and hours of operation that patrons' dogs will be permitted in the designated outdoor area;
  - v. All application materials shall contain the appropriate State of Florida, Division of Hotels and Restaurants (the "Division") issued license number for the subject public food service establishment;
  - vi. The contents and proposed location of a kit for the cleaning and sanitizing of any dog waste accidents; and
  - vii. The proposed location of all signs required by subsection (e) (1), below.
- (3) The City Council may adopt by resolution or ordinance reasonable fees necessary to:
- i. Recoup the costs of processing the initial application, permitting, and inspections; and
  - ii. Provide for an annual renewal, and enforcement.
- (e) *General Regulations:*
- (1) In order to protect the health, safety, and general welfare of the public, and pursuant to Section 509.233, Florida Statutes, all permits issued pursuant to this subsection are subject to the requirements contained within Section 509.233(3) (c) Florida Statutes and including, but not limited to:
- i. 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.
  - ii. 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.
  - iii. 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.
  - iv. Patrons shall keep their dogs on a leash at all times and shall keep their dogs under reasonable control.
  - v. Dogs shall not be allowed on chairs, tables, or other furnishings.
  - vi. All table and chair surfaces shall be cleaned and sanitized with an approved product between seating of patrons. Spilled food and drink shall be removed from the floor or ground between seating of patrons.
  - vii. Accidents involving dog waste shall be cleaned immediately and the area sanitized with an approved product. A kit with the appropriate materials for this purpose shall be kept near the designated outdoor area. The contents of the kit shall be identified at the time of application and approved by the City Manager or designee.
  - viii. At least one (1) sign reminding employees of the applicable rules including those contained in this subsection, and those additional rules and regulations, if any, included as further conditions of the permit by the City Manager or designee, shall be posted in a conspicuous location frequented by employees within the public food service establishment. The mandatory sign shall be not less than eight and one-half

inches in width and eleven inches in height (8½" × 11") and printed in easily legible typeface of not less than twenty (20) point font size.

- ix. At least one (1) sign reminding patrons of the applicable rules including those contained in this subsection, and those additional rules and regulations, if any, included as further conditions of the permit by the City Manager or designee, shall be posted in a conspicuous location within the designated outdoor portion of the public food service establishment. The mandatory sign shall be not less than eight and one-half inches in width and eleven inches in height (8½" × 11") and printed in easily legible typeface of not less than twenty (20) point font size. The number and location of the sign(s) shall be determined by the City Manager or designee.
  - x. At all times while the designated outdoor portion of the public food service establishment is available to patrons and their dogs, a sign shall be posted in a conspicuous and public location near all entrances to the designated outdoor portion of the public food service establishment, the purpose of which shall be to place patrons on notice that the designated outdoor portion of the public food service establishment is currently available to patrons accompanied by their dog or dogs. The mandatory sign shall be not less than twelve inches in width and fifteen inches in height (12" × 15") and printed in easily legible typeface of not less than twenty (20) point font size. The notice shall state in like or similar language "Dogs are permitted in outdoor seating areas". In addition, table place cards shall be required on or at all seating areas indicating in like or similar language "Dogs are permitted in this seating area".
  - xi. Dogs shall not be permitted to travel through indoor or non-designated 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.
- (2) A permit issued pursuant to this subsection shall not be transferred to a subsequent owner upon the sale or transfer of a public food service establishment, but shall expire automatically upon such sale or transfer. The subsequent owner shall be required to reapply for a permit pursuant to this subsection if such owner wishes to continue to accommodate patron's dogs.
  - (3) Permits shall expire on June 30 of each year, with any required annual renewal fee being due and payable on or before September 30 of the prior year, concurrent with payment of a business tax receipt.
  - (4) Procedure for processing complaints: In accordance with Section 509.233(6), Florida Statutes, the City Manager or designee shall accept, document, and respond to complaints, and timely report to the Division all such complaints and the City's enforcement responses to such complaints. The City Manager or designee shall also timely provide the Division with a copy of all approved applications and permits issued pursuant to this subsection.
  - (5) Any public food service establishment that fails to comply with the requirements of this subsection shall be guilty of violating this subsection of the City of Titusville Land Development Regulations and shall be subject to any and all enforcement proceedings consistent with the applicable provisions of the City of Titusville Land Development Regulations and general law.


**Section 3. SEVERABILITY.** If any provisions of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

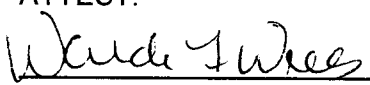
**Section 4. REPEAL OF CONFLICTING ORDINANCES.** All ordinances or parts of ordinances, and all resolutions and parts of resolutions, in conflict herewith are hereby repealed to the extent of such conflict.

**Section 5. INCORPORATION INTO CODE.** This ordinance shall be incorporated into the City of Titusville Code of Ordinances and any section or paragraph, number or letter, and any heading may be changed or modified as necessary to effectuate the foregoing: Grammatical, typographical, and like errors may be corrected and additions, alterations, and omissions, not affecting the construction or meaning of this ordinance and the Code may be made.

**Section 6. EFFECTIVE DATE.** This Ordinance shall be become in full force and effect upon adoption by the City Council in accordance with the Charter of the City of Titusville, Florida.

**PASSED AND ADOPTED** this 12<sup>th</sup> day of December, 2017.

  
\_\_\_\_\_  
Walt Johnson, Mayor

ATTEST:  
  
\_\_\_\_\_  
Wanda F. Wells, City Clerk

