

ORDINANCE NO. 1780 - 2020

AN ORDINANCE OF THE CITY OF ROCKLEDGE, BREVARD COUNTY, FLORIDA, AMENDING PART VIII OF THE LAND DEVELOPMENT REGULATIONS BY ADDING A NEW SECTION 80.26 - "DOG FRIENDLY DINING" TO THE LAND DEVELOPMENT REGULATIONS PERMITTED UNDER §509.233, FLORIDA STATUTES, ESTABLISHING DEFINITIONS AND CREATING PROVISIONS FOR THE REGULATION OF SAID DOG FRIENDLY DINING; DECLARING THAT INVALIDITY OF ANY PORTION HEREOF SHALL NOT AFFECT THE REMAINING PORTIONS OF THIS ORDINANCE; PROVIDING FOR THE EFFECTIVE DATE HEREOF AND FOR OTHER PURPOSES.

WHEREAS, the Rockledge Planning Commission has reviewed a proposal to establish dog friendly dining areas, as permitted by §509.233, Florida Statutes, at dining establishments within the City of Rockledge; and

WHEREAS, the Rockledge Planning Commission has recommended to the Rockledge City Council that dog friendly dining would benefit the City as a whole; and

WHEREAS, the Rockledge City Council has determined that dog friendly dining, as recommended by the Planning Commission, would be beneficial to the City as a whole.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKLEDGE, FLORIDA, AS FOLLOWS:

SECTION 1. That Part VIII of the Rockledge Land Development Regulations is amended to create a new Section

80.26 for dog friendly dining as follows:

SEE EXHIBIT "A"

SECTION 2. The provisions of this Ordinance are severable, and if any section, sentence, clause, or phrase hereof is for any reason held to be unconstitutional, invalid, or ineffective, such holding shall not affect the validity of the remaining portions of this Ordinance, it being expressly declared to be the City Council's intent that it would have passed the valid portions of this Ordinance without the inclusion therein of any invalid portion or portions.

SECTION 3. This Ordinance shall become effective ten (10) days following its adoption and signed by the Chairman of the City Council.

ADOPTED at a regular meeting of the City Council of the City of Rockledge, Florida, this 9 day of September, 2020.

City
of Rockledge, Florida

 /s/Thomas J. Price
Chairman, City Council of the

ATTEST:

 /s/Jennifer M. LeVasseur
City Clerk

1st Reading: 8/19/2020

2nd Reading: 9/9/2020

EXHIBIT "A" TO ORDINANCE 1780 - 2020

80.26. – Dog friendly dining

- (a) Purpose and intent - The purpose and intent of this part is to implement the local exemption established by section 509.233, Florida Statutes, by permitting public food service establishments within the City of Rockledge, Florida, subject to the terms and contained herein, to become exempt from certain portions of the United States Food and Drug Administration Food Code, as amended from time to time, and as adopted by the State of Florida Department of Business and Professional Regulation Division of Hotels and Restaurants, in order to allow patrons' dogs within certain designated outdoor portions of their respective establishments.
- (b) Program created - Pursuant to section 509.233, Florida Statutes, there is hereby created in the City of Rockledge, Florida, a local exemption procedure to certain provisions of the United States Food and Drug Administration Food Code, as amended from time to time, and as adopted by the State of Florida Department of Business and Professional Regulation Division of Hotels and Restaurants, in order to allow patrons' dogs within certain designated outdoor portions of public food service establishments, which exemption procedure may be known as the City of Rockledge Dog Friendly Dining Program.
- (c) Definitions
 - (1) "Division" means the Division of Hotels and Restaurants of the State of Florida Department of Business and Professional Regulation.
 - (2) "Dog" means an animal of the subspecies *Canis lupus familiaris*.
 - (3) "Designated dog-friendly dining area" means an outdoor area of a public food service establishment that has been designated as an area within which patrons' dogs are permitted, subject to the terms of the dog-friendly dining ordinance.
 - (4) "Patron" has the meaning given to "guest" by section 509.013, Florida Statutes.
 - (5) "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.
 - (6) "City Planner" means the city official responsible for the administration and enforcement of the provisions of this section.
- (d) Permit required; Submittals.
 - (1) No dog shall be permitted at a public food service establishment unless such public food service establishment possesses a valid permit issued in accordance with this section.
 - (2) Applications for a permit under this part shall be made to the City Planner, on a form provided for such purpose by the City Planner:
 - a. The name, location, and mailing address of the subject public food service establishment;
 - b. The name, mailing location, and telephone contact information of the permit applicant;
 - c. A diagram and description of the designated dog-friendly dining area which shall be accurate and to scale but need not be prepared by a licensed design professional;
 - d. Dimensions of the designated area;
 - e. A depiction of the number and placement of tables, chairs, and restaurant equipment, if any;
 - f. The entryways and exits to the designated outdoor area;
 - g. The boundaries of the designated area and of any other areas of outdoor dining not available for patrons' dogs;

- h. Any fences or other barriers; surrounding property lines and public rights-of-way, including sidewalks and common pathways;
- i. Such other information reasonably required by the City Planner;
- j. A description of the days of the week and hours of operation that patrons' dogs will be permitted in the designated dog-friendly dining area;
- k. The procedures for dog waste control;
- l. All application materials shall contain the appropriate division issued license number for the subject public food service establishment;
- m. A copy of the certificate demonstrating current liability insurance consistent with the requirements of this section;
- n. A \$25 application fee

(e) General Regulations and Enforcement.

- (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 part are subject to the following requirements:
 - a. All public food service establishment employees shall wash their hands promptly after touching, petting, or otherwise handling any dog. Employees shall be prohibited from touching, petting, or otherwise handling any dog while serving food or beverages or handling tableware or before entering other parts of the public food service establishment.
 - b. 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.
 - c. 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.
 - d. The number of patrons' dogs permitted within the designated dog-friendly dining area shall be limited to up to two (2) dogs per table.
 - e. Patrons shall keep their dogs on a maximum of six (6) feet leash at all times and shall keep their dogs under reasonable control.
 - f. Dogs shall not be allowed on chairs, tables, or other furnishings.
 - g. 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.
 - h. 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.
 - i. All dogs shall wear a current license tag and rabies tag and/or the patron shall have a current license certificate and rabies certificate or any combination of the two certificates immediately available upon request.
 - j. At least one sign reminding employees of the applicable rules contained in this Section, and those additional rules and regulations, if any, included as further conditions of the permit by the City Planner, shall be posted as follows:
 - 1. In a conspicuous location frequented by employees within the public food service establishment.
 - 2. In a conspicuous location within the designated dog-friendly dining area.

3. At the entrance of the designated dog-friendly dining area.
- k. 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.
- l. Dogs shall not be permitted to travel through indoor or undesignated outdoor portions of the public food service establishment, and ingress and egress to the designated dog-friendly dining area shall not require entrance into or passage through any indoor or undesignated outdoor portion of the public food service establishment. No more than 90 percent of the outside dining area shall be designated as a dog-friendly dining area.
- m. The City Planner shall also timely provide the division with a copy of all approved applications and permits issued pursuant to this part.

(f) Complaints and Reporting.

- (1) In accordance with section 509.233, Florida Statutes, the City Planner shall accept and document complaints related to the dog friendly dining establishment within the City of Rockledge, Florida, and shall timely report to the Division and the City Manager all such complaints and the City's enforcement response to such complaint.
- (2) Any public food service establishment that fails to comply with the requirements of this part shall be subject to any and all enforcement proceedings consistent with the applicable provisions of the Rockledge City Code and general law. Each day a violation exists shall constitute a distinct and separate offense.

(g) Insurance and liability.

- (1) Prior to the issuance of a permit, the applicant shall submit to the City Manager a signed instrument agreeing to indemnify and hold harmless the City and its council members, officers, employees and attorneys. The signed instrument shall be in a form acceptable to the City Attorney and City Manager, but at a minimum the instrument shall state the applicant will indemnify and hold the City harmless against liability, including court costs and reasonable attorney's fees, through all appellate proceedings, for any and all claims for damage to property, or injury to, or death of, persons arising out of or resulting from the issuance of the permit.

Any person issued a permit shall furnish proof of insurance of the types and amounts set forth below:

- a. Minimum insurance policy limits: Any person issued a permit shall maintain commercial general liability insurance covering the designated dog-friendly dining area with a minimum per occurrence limit of not less than one million dollars (\$1,000,000.00) and with a deductible amount not more than one thousand dollars (\$1,000.00). The City shall be named as an additional insured on the commercial general liability insurance policy, at the City's request.

Any person issued a permit and involved in the sale or furnishing of alcoholic beverages shall also maintain liquor liability insurance covering the designated dog-friendly dining area with a minimum per occurrence limit of not less than one million dollars (\$1,000,000.00) and with a deductible amount not more than one thousand dollars (\$1,000.00). The City shall be named as an additional insured on the liquor liability insurance policy, at the City's request.

- b. Proof of insurance. The required insurance coverage shall be obtained by the applicant at the applicant's sole expense. The applicant shall submit proof of insurance in the form of a certificate of insurance and copies of the actual policy endorsements naming the City as an additional insured and providing for not less than thirty (30) days written notice of cancellation, expiration or termination of any insurance coverage provided herein.

(h) Issuance

Permits issued pursuant to this Section shall be subject to the following:

- (1) The permit shall not be transferable. A permit issued pursuant to this Section shall expire automatically upon the sale, lease, or transfer of a public food service establishment. The subsequent owner shall be required to reapply for a permit pursuant to this Section if such owner wishes to continue to accommodate patrons' dogs.
- (2) The permit shall expire on September 30th of each year, with any required annual renewal fee being due and payable on or before September 30th of the prior year, concurrent with payment of a business tax receipt.
- (3) The permit may be subject to suspension by the City Manager during special or community events. Nothing contained in the dog-friendly dining ordinance shall be construed as allowing a permittee to maintain and operate a designated dog-friendly dining area during special or community events. If suspended, the City Manager may require the temporary removal or discontinuance of all or part of the designated dog-friendly dining area. The permittee shall not be entitled to a refund or abatement of the annual permit fee for such suspension of the permit.
- (4) The City Manager may require the temporary removal or discontinuance of a designated dog-friendly dining area when street, sidewalk, or utility repairs necessitate such action. The permittee shall not be entitled to a refund or abatement of the annual permit fee for such temporary removal of a designated dog-friendly dining area.
- (5) The utilities department, the police department, and the fire department may immediately remove or relocate all or part of the designated dog-friendly dining area in emergency situations. The City and its officers or employees shall not be responsible for damages or loss of profits to a designated dog-friendly dining area relocated or discontinued during an emergency.
- (6) The permit shall be specifically limited to the designated dog-friendly dining area shown on the exhibit attached to and made part of the permit.
- (7) Permittee shall, at all times, operate and maintain its designated dog-friendly dining area in a manner so as not to interfere with pedestrians or limit their free, unobstructed passage.
- (8) Tables, chairs, benches and other objects of the designated dog-friendly dining area may be removed by the City and a reasonable fee charged for the labor, transportation and storage, should the permittee fail to remove said items within thirty-six (36) hours of receipt of the City Manager's final notice to do so for any reason provided under the Dog-Friendly Dining Ordinance.

(i) Denial, revocation, or suspension of permit.

- (1) Without any limitation whatsoever on the City's police powers, the City Manager shall have the authority to immediately suspend or revoke a permit issued pursuant to this Section under the following circumstances:

- a. Permittee's business or health permit required by law has been suspended, revoked or cancelled.
- b. Permittee does not have the requisite insurance required by this Section.
- c. Changing conditions of pedestrian or vehicular traffic cause congestion, necessitating removal of the designated dog-friendly dining area. Such decision shall be based upon findings of the City Manager that the minimum pedestrian path is insufficient under existing circumstances and the dog-friendly dining area represents a danger to the health, safety or general welfare of pedestrians or vehicular traffic.
- d. Permittee has received three (3) notice[s] of violation of the dog-friendly dining ordinance within the permitted year.
- e. Permittee failed to correct a violation of the dog-friendly dining ordinance or condition(s) of the permit within three (3) days of receipt of the City Manager's written notice of same.
- f. Permittee provided false or misleading information on the application which was material to the approval of the permit.

(2) Upon suspension or revocation, the City Manager shall give notice of such action to the applicant or the permittee in writing stating the action which has been taken and the reason thereof.

(j) Appeals.

- (1) Permittees may appeal a suspension or revocation. Such appeal shall be taken by filing with the City Council, within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The City Council shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner for notice of hearing on revocation. The decision and order of the City Council on such appeal shall be final and conclusive.
- (2) The filing of a notice of appeal by a permittee shall not stay an order of the City Manager to remove or discontinue a designated dog-friendly dining area or parts thereof. The designated dog-friendly dining area or parts thereof shall be removed or discontinued as required by the City Manager pending disposition of the appeal and final decision of the City Council.