

AN ORDINANCE AMENDING ARTICLE III, "DEVELOPMENT REVIEW," CHAPTER 6, "OTHER APPROVALS," OF THE CITY OF CAPE CORAL LAND DEVELOPMENT CODE, BY CREATING SECTION 3.6.2., "DOGS IN FOOD SERVICE ESTABLISHMENTS"; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Section 509.233, Florida Statutes, allows for the governing body of a local government to establish, by ordinance, an exemption procedure in order to allow patrons' dogs within certain designated outdoor portions of public food service establishments

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS THIS ORDINANCE AS FOLLOWS:

SECTION 1. The City of Cape Coral Land Development Code, Article III, Chapter 6, is hereby amended to create Section 3.6.2., "Dogs in food service establishments," as follows:

Section 3.6.2. - Dogs in food service establishments.

- A. Generally. Pursuant to F.S. 509.233, patrons' dogs (*canis lupus familiaris*) may be permitted within certain designated outdoor portions of public food service establishments in conjunction with approved outdoor dining subject to the approval of an outdoor dog dining permit.
- B. Application. Complete applications for an outdoor dog dining permit shall include all of the following:
1. The name, location, and mailing address of the public food service establishment.
 2. The name, mailing address, and telephone contact information of the permit applicant.
 3. 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 and other barriers; surrounding property lines and public rights-of-way, including sidewalks and common pathways; and such other information reasonably required by the City. The diagram or plan shall be accurate and to scale but need not be prepared by a licensed design professional.
 4. A description of the days of the week and hours of operation that patrons' dogs will be permitted in the designated outdoor area.
 5. Payment of an application fee to the City in the amount established by Resolution of the City Council, to cover the cost of processing an application and subsequent annual renewals.
- C. Review and approval; annual renewals.
1. Upon the submittal of the required documents and fee to the Department of Community Development, the Director shall review the application and, upon a finding that the required materials are in order and the requested permit will not hinder the general health, safety, and welfare of the public, a permit shall be issued.
 2. The City may impose additional conditions as necessary in order to protect the health, safety, and welfare of the community.
 3. The City shall provide the Division of Hotels and Restaurants of the Department of Business and Professional Regulation with a copy of all approved applications and permits issued, and the City shall require that all applications, permits, and other related materials contain the appropriate Division of Hotels and Restaurants of the Department of Business and Professional Regulation issued license number for each public food service establishment.

4. Outdoor dog dining permits shall be renewed annually, at the time of renewing the associated food service establishment's Business Tax Receipt. The failure to timely renew an outdoor dog dining permit with the City shall be deemed a violation of this section and may result in the revocation of such permit pursuant to Subsection E. below. At the time of renewal, the applicant shall certify that all of the information previously provided to the City pursuant to Subsection B. above is current and accurate. Any misrepresentation of the facts and information provided to the City shall be deemed a violation of this section. In the event that any of the information provided to the City pursuant to Subsection B. above changes, such permit shall automatically expire and the public food service establishment shall be required to apply for a new outdoor dog dining permit, and pay a new application fee, if such establishment wishes to accommodate patrons' dogs.

D. Standards. In order to protect the health, safety, and general welfare of the public, each approved establishment shall abide by the following standards and requirements:

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.
6. 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.
7. 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.
8. A sign or signs reminding employees of the applicable rules shall be posted on premises in a manner and place as determined by the City.
9. A sign or signs reminding patrons of the applicable rules shall be posted on premises in a manner and place as determined by the City.
10. A sign or signs shall be posted in a manner and place as determined by the City that places the public on notice that the designated outdoor area is available for the use of patrons and patrons' dogs.
11. Dogs shall not be permitted to travel through indoor and nondesignated outdoor portions of the 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.

E. Revocation.

1. An outdoor dog dining permit may be revoked by the Department of Community Development Director if the public food service establishment fails to comply with any of the standards or conditions of approval, fails to comply with the diagram or plans provided to the City, or fails to maintain any required state or local license(s).

2. If the ground for revocation is a failure to maintain any of the required state or local license(s), the revocation may take effect immediately upon giving notice of revocation to the permit holder by the Director.
 3. A public food service establishment may appeal a notice of revocation rendered by the Director to the Special Magistrate. Within ten (10) calendar days from the date of a notice of revocation, a public food service establishment may request an appeal in writing to the Director, who shall then schedule a public hearing before the Special Magistrate as soon as practicable. The Special Magistrate shall consider the appeal and render a decision to uphold the revocation or reverse the revocation based upon the standards and requirements of this section. In the event that a timely written appeal is not requested by a public food service establishment, the subject permit shall be deemed revoked.
 4. If revoked, a public food service establishment may not be approved for a new outdoor dog dining permit for a period of 12 months from the date of revocation.
- F. Transfer. An outdoor dog dining permit issued pursuant to this section shall not be transferable to a subsequent owner upon the sale of a public food service establishment, but shall expire automatically upon the sale of the establishment. The subsequent owner shall be required to apply for a new outdoor dog dining permit, and pay a new application fee, if the subsequent owner wishes to accommodate patrons' dogs.
- G. Enforcement and penalties. The failure to comply with any of the provisions of this section or any of the standards or conditions of approval shall constitute a violation of this section and may subject the public food service establishment to the code enforcement procedures provided in Section 2-81 through 2-96, Cape Coral Code of Ordinances. Each instance of a dog on the premises of a public food service establishment without a current outdoor dog dining permit, or in contravention of an approved permit, is a separate violation. Every violation of this section, and each day thereof, shall constitute a separate offense under this section.

SECTION 2. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 5th DAY OF May, 2021.


JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

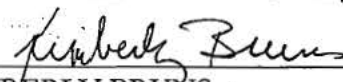
GUNTER
TATE
SHEPPARD
HAYDEN

aye
aye
aye
aye

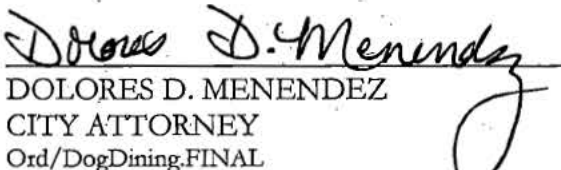
NELSON
WELSH
WILLIAMS
COSHEN

aye
aye
excused
aye

ATTESTED TO AND FILED IN MY OFFICE THIS 12th DAY OF May, 2021.


KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:


DOLORES D. MENENDEZ
CITY ATTORNEY
Ord/DogDining.FINAL