



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		12/17/13		
Department:		ENVIRONMENTAL HEALTH		
Department Head		BRIAN COLLINS		
Agenda Coordinator (include phone #): Doris Callaway, Ext. 7494				
CAPTION				
Receipt of Public Comment in Consideration of an Ordinance of the City Council of the City of Plano, Texas, amending Ordinance No. 2012-12-16, codified as Chapter 9, Food Code of the Code of Ordinances of the City of Plano to add Section 9-79 of Article VII, Construction and Maintenance of Physical Facilities, of Chapter 9, Food Code, to establish a process to apply for a variance allowing dogs on outdoor patios at certain food establishments; providing a repealer clause, a severability clause, a savings clause, and an effective date.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: 2013-14	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S): N/A				
COMMENTS: This item has no fiscal impact STRATEGIC PLAN GOAL: Updates to Chapter 9, Food Code of the Code of Ordinances of the City of Plano relate to the City's Goal of a Safe Large City.				
SUMMARY OF ITEM				
Amending ordinance to establish a process to apply for a variance with health and safety guidelines allowing dogs on outdoor patios at certain food establishments.				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Health Memo				



Memorandum

Date: December 4, 2013

To: Brian Collins
Director of Environmental Health

From: Geoffrey Heinicke
Environmental Health Manager

Subject: Revisions to Chapter 9

Chapter 9 (Food Code) has been amended to provide food establishments an opportunity to apply for a variance, which will allow dogs in outdoor patios. Requirements have been established to mitigate risks associated with presence of dogs in these areas of food establishments. This application process and requirements are included as amendments to Chapter 9.

A “variance application/renewal” fee has been added to the “Health Categories and Fees” ordinance, as referenced in these amendments to Chapter 9.

An Ordinance of the City Council of the City of Plano, Texas, amending Ordinance No. 2012-12-16, codified as Chapter 9, Food Code of the Code of Ordinances of the City of Plano to add Section 9-79 of Article VII, Construction and Maintenance of Physical Facilities, of Chapter 9, Food Code, to establish a process to apply for a variance allowing dogs on outdoor patios at certain food establishments; providing a repealer clause, a severability clause, a savings clause, and an effective date.

WHEREAS, on December 18, 2012 the City Council of the City of Plano duly passed Ordinance No. 2012-12-16 codified as Chapter 9, Food Code, of the Code of Ordinances of the City of Plano; and

WHEREAS, upon review of the existing ordinance, regulations governing food establishments, and considering the opinion of citizens and business owners, staff recommends that certain amendments be made in order to address the needs of citizens and protect public health and safety; and

WHEREAS, the City Council of the City of Plano, Texas determines it is in the best interest of the City and its citizens to adopt regulations to allow food establishments to seek a variance allowing dogs on outdoor patios within the City of Plano and to establish standards that will protect public health and safety; and

WHEREAS, the City Council of the City of Plano, after consideration of the recommendations of staff and all matters attendant and related thereto, is of the opinion that the recommended changes are in the best interest of the City and its citizens and will promote the health, safety and welfare of the citizens of Plano and the general public.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. Ordinance No. 2012-12-16 codified as Chapter 9, Food Code, of the Code of Ordinances of the City of Plano, is hereby amended by the addition of the following new Section 9-79:

“Sec. 9-79. Variance for dogs on premises of a food establishment

(1) A food establishment with an outdoor patio under its exclusive ownership or control may apply to the regulatory authority for a variance modifying or waiving the prohibition against dogs on the premises of a food establishment contained in Section 9-78(f)(1) of this Code, and Section 229.167(p)(15) of the TFER. The food establishment shall apply for the variance on a form provided by the regulatory authority and shall include in the application all of the information required by Section 229.171(c)(2) of the TFER. The application shall be accompanied by a nonrefundable variance application fee.

(2) The regulatory authority may grant a variance, as authorized in Section 9-108 (c) of this Chapter and Section 229.171(c) of the TFER, by modifying or waiving the requirements of the TFER or the requirements of Section 9-78(f)(1) of this Code.

(3) A food establishment granted a variance shall comply with any conditions or standards for the variance established by the regulatory authority or this chapter.

(4) A variance granted under this section is nontransferable. The variance shall expire two years after the date it is granted by the regulatory authority, unless it is sooner revoked by the regulatory authority or terminated by the food establishment. A variance may be renewed through the application process set forth in Paragraph (1) of this subsection.

(5) The regulatory authority shall deny or revoke a variance if:

- (A) the application for variance contains a false statement as to a material matter;
- (B) the food establishment does not hold a valid permit issued under this Chapter;
- (C) the regulatory authority determines that a health hazard or nuisance will result or has resulted from the variance;
- (D) the food establishment failed to pay a fee required under this Chapter at the time it was due; or
- (E) the food establishment is in violation of any term or condition of the variance as established by the regulatory authority, this Chapter, or state law.

(6) If the regulatory authority denies or revokes a variance, the regulatory authority shall notify the applicant in writing by personal service or regular United States mail. The notice must include the reasons for the denial or revocation and a statement informing the applicant of the right to appeal the decision in accordance with Section 9-115 of this Chapter.

(7) If the regulatory authority grants a variance to Section 9-78(f)(1) of this Chapter allowing dogs to be present in the outdoor patio area of a food establishment, then the food establishment shall comply with the following conditions and standards in addition to any other conditions and standards established by the regulatory authority for the variance under the authority of Section 229.171(b)(1) of the TFER:

(A) Except as allowed under Section 9-78(f)(2) of this Chapter, no dog may be present inside the food establishment or on any playground area of the food establishment.

(B) A separate entrance must be provided from the outside of the food establishment to the outdoor patio so that a dog will have direct access to the patio without entering the interior of the food establishment or any playground area of the food establishment. A dog may not be allowed within seven (7) feet of any entrance to the interior of the food establishment, except when necessary to enter or exit the patio.

(C) A sign must be posted at the front entrance of the food establishment so that it is easily visible to the public. The sign must state: "DOG FRIENDLY PATIO - DOG ACCESS ONLY THROUGH OUTDOOR PATIO."

(D) Doors equipped with self-closing devices must be provided at all entrances to the outdoor patio from the interior of the food establishment, and must be kept closed when not in use.

(E) No food preparation, including mixing drinks or serving ice, may be performed in the outdoor patio area, except that a beverage glass may be filled on the patio from a pitcher or other container that has been filled or otherwise prepared inside the food establishment.

(F) The outdoor patio must be continuously maintained free of visible dog hair, dog dander, and other dog-related waste or debris. The outdoor patio must be hosed down or mopped

with a product approved under Section 9-77 of this Code at the beginning of each shift during which food or beverages will be served (breakfast, lunch, dinner, or late-hours), or, if a food establishment has continuous food or beverage service without designated shifts, then every three (3) hours that the establishment is open for business, except that cleaning under this subparagraph is not required if no dog has been present on the outdoor patio since the last cleaning.

(G) (a) All table and chair surfaces shall be constructed of non-porous, easily cleanable material and cleaned and sanitized with a product approved under Section 9-77 of this Code.

(b) Spilled food and drink shall be removed from the floor or ground within five (5) minutes of the spill.

(H) Waste created from a dog's bodily functions must be cleaned up with a product approved under Section 9-77 of this Code within five (5) minutes after each occurrence. All dog waste must be disposed of outside of the food establishment in an appropriate waste receptacle. Equipment used to clean the outdoor patio must be kept outside of the food establishment.

(I) While on duty, wait staff or other food handlers at the food establishment may not pet or have contact with any dog.

(J) A card, sign, or other effective means of notification shall be displayed to notify patrons in the outdoor patio area that they should wash their hands before eating.

(K) A dog must be kept on a leash, or in a secure bag or container specifically designed to carry and provide continuous restraint of dogs while providing adequate ventilation, and remain under continuous physical control of the customer while in the outdoor patio area. The dog must be wearing a collar or harness with a current rabies tag attached to it.

(L) A dog is not allowed on a seat, table, countertop, or similar surface in the outdoor patio area.

(M) A dog is not allowed to have contact with any dishes or utensils used for food service or preparation at the food establishment.

(N) A dog may not be given any food (including, but not limited to, dog kibble, biscuits, and edible treats) while in the outdoor patio area, but may be given water in a disposable container.

(O) The food establishment shall maintain written procedures to notify the City of Plano's Animal Services Division of any local rabies control incident as required by Section 4-93 of this Code, or any other incident in which two or more dogs are involved in any sort of altercation where they physically come into contact with each other, regardless of whether any of the animals are injured."

Section II. All provisions of the Ordinances of the City of Plano, codified or uncodified, in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, codified or uncodified, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section III. It is the intention of the City Council that this Ordinance, and every provision thereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision or portion of this Ordinance shall not affect the validity or constitutionality of any other portion of this Ordinance.

Section IV. The repeal of any Ordinance or part of Ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such Ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any Ordinances at the time of passage of this Ordinance.

Section V. This Ordinance shall become effective from and after its passage.

DULY PASSED AND APPROVED this the 17th day of December, 2013.

Harry LaRosiliere, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY