

ORDINANCE NO. 6917

AN ORDINANCE AMENDING CHAPTER 22, "HEALTH", OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A PENALTY UNDER THE PROVISIONS OF SEC. 10.05 OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A SAVINGS CLAUSE AND A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS:

Section 1

That Chapter 22, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby amended by adding a new subsection 228.186(o)(4) to read as follows:

"Notwithstanding anything to the contrary herein, a food establishment with an outdoor patio may permit dogs to be present in the outdoor patio of the food establishment if the food establishment obtains from the regulatory authority a variance waiving the prohibition against permitting the presence of a dog on the premises of the food establishment and complies with the following conditions and standards:

(A) Except as allowed under 228.186(o)(2) of the Texas Food Establishment Rules, no dog may be present in the interior of the food establishment or on any playground area designated for children on the premises of the food establishment.

(B) The term "outdoor patio" means an outdoor service area that is:

(i) under the exclusive ownership or control of a food establishment;

(ii) attached or adjacent to the food establishment; and

(iii) separated from the public areas with a barrier.

A public sidewalk is not considered an "outdoor patio" for the purposes of this variance.

(C) A separate entrance must be provided from the outside of the food establishment to the outdoor patio so that a dog has direct access to the outdoor 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 feet of any entrance to the interior of the food establishment, except when necessary to enter or exit the outdoor patio.

(D) An approved sign shall be posted at the front or each entrance of the food establishment and at each outdoor patio entrance so that it is easily visible to the public. The sign must state in at least 1½-inch type: "DOG FRIENDLY PATIO: DOG ACCESS TO OUTDOOR PATIO ONLY" and "To report a dog incident, please call Garland Animal Services - (972)205-3570."

(E) 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.

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

(G) The outdoor patio must be maintained to be 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 the Rules at the beginning of each shift during which food or beverages will be served (breakfast, lunch, dinner, or late-hours), and not less frequently than every 12 hours, except that cleaning under this subsection is not required if no dog has been present on the outdoor patio since the last cleaning.

(H) All table and chair surfaces must be easily cleanable material and cleaned and sanitized with a product approved under the Rules. Spilled food and drink must be removed from the floor or ground within five minutes of the spill.

(I) Waste resulting from a dog's bodily functions must be cleaned up with a product approved under the Rules within five minutes of each occurrence of the emission of such waste. All dog waste must be disposed of outside of the food establishment and outside of any outdoor patio in an appropriate waste receptacle. Equipment used to clean the outdoor patio must be kept outside of the food establishment.

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

(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 the dog while providing adequate ventilation for the dog, and must remain under continuous physical control of the owner or other responsible adult while in the outdoor patio.

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

(M) A dog is not allowed to be tied as a means of restraint other than by a hand-held leash.

(N) A dog may not have contact with any dishes or utensils used for food service or preparation at the food establishment. A dog may be given water in a disposable container.

(O) The food establishment shall notify and maintain written procedures to notify the Animal Services division of any local rabies control incident as required by 22.07 of the Garland Code of Ordinances, or any other incident in which two or more dogs are involved in any altercation where they physically come into contact with each other, regardless of whether any of the animals are injured.

(P) The flooring of the outdoor patio where dogs are permitted must be constructed of non-porous, approved material and have no covering that would inhibit thorough cleaning.

(Q) A food establishment shall not permit dogs to be present in the outdoor patio of the food establishment if:

(i) The regulatory authority determines that a health hazard or nuisance will or has resulted; or

(ii) The food establishment is in violation of this title or state law.

(R) Variance required.

(i) Except as allowed herein, any food establishment that allows dogs on its premises without a variance is in violation of this ordinance. The owner or operator of a food establishment with an outdoor patio may apply to the regulatory authority for a variance waiving the prohibition against dogs on the premises of the food establishment. The variance application must be on a form provided by the regulatory authority and must be submitted with a non-refundable, pre-operational inspection fee of \$100.00.

(ii) An inspection must be performed by the regulatory authority to ensure that the food establishment complies with the conditions and standards set forth in this title.

(iii) A variance granted under this title is nontransferable. The variance shall expire two (2) 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 subsection (i) of this section.

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

(a) The proposed patio does not meet the definition of outdoor patio;

(b) The application for the variance contains a false statement;

(c) The food establishment does not hold a valid permit issued under this ordinance;

(d) The regulatory authority determines that a health hazard or nuisance will result or has resulted from the variance;

(e) The food establishment failed to pay a required fee at the time it was due under this ordinance; or

(f) The food establishment is in violation of any term or condition of the variance as established by the regulatory authority, this title, or state law.

(v) If the regulatory authority denies or revokes a variance, the regulatory authority shall notify the applicant in writing. The notice must include the reasons for the denial or revocation.

(vi) A food establishment for which a variance under this subsection is denied or revoked may appeal by requesting a hearing within ten days after service of the notice of the denial or revocation. Such request must be in writing, must specify the reasons why the variance should not be denied or revoked, and must be filed with the regulatory authority. A hearing must be conducted by the regulatory authority within fifteen days from receipt of the appeal."

Section 2

That a violation of any provision of this Ordinance shall be a misdemeanor punishable in accordance with Sec. 10.05 of the Code of Ordinances of the City of Garland, Texas.

Section 3

That Chapter 22, "Health", of the Code of Ordinances of the City of Garland, Texas, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

Section 4

That the terms and provisions of this Ordinance are severable and are governed by Sec. 10.06 of the Code of Ordinances of the City of Garland, Texas.

Section 5

That this Ordinance shall be and become effective immediately upon and after its passage and approval.

PASSED AND APPROVED this the 20th day of June, 2017.

CITY OF GARLAND, TEXAS

Mayor

ATTEST:

City Secretary