



Interoffice Memorandum

September 7, 2018

TO: Mayor Teresa Jacobs  
-AND-  
Board of County Commissioners

FROM: Jon V. Weiss, P.E., Director  
Community, Environmental and Development Services Department

CONTACT PERSON: Jennifer Moreau, Assistant Manager, Zoning Division  
407-836-5856

SUBJECT: September 18, 2018 – First of Two Public Hearings  
Ordinance Amending Chapter 38 ("Zoning")  
Dog Friendly Dining

On June 5, 2018, staff presented the Board with a work session on dog friendly dining, and the changes required in order to allow the activity in Orange County. The discussion included an overview of applicable Florida Statutes, various provisions of a potential ordinance amending Orange County Code Chapter 38, and how complaints, reporting, and enforcement could be addressed. At that time, the Board directed staff to prepare an ordinance for consideration. On June 21, 2018, a work session was held with the Local Planning Agency/Planning and Zoning Commission (LPA/PZC).

On July 19, 2018, the LPA/PZC held a public hearing to consider the amendments to Sections 38-79(86) "Conditions For Permitted Uses And Special Exceptions" and to create Section 38-1402 "Establishing A Local Exemption To The Food And Drug Administration's Food Code For Dogs In Designated Outdoor Portions Of Public Food Service Establishments". The LPA/PZC found the ordinance consistent with the Comprehensive Plan and recommended approval of the draft ordinance with amendments, which are underlined in the attached ordinance.

The proposed ordinance dated 08/21/18 addresses the requirements outlined in the Florida Statutes, provides definitions, updates the conditions for outdoor seating, prohibits dangerous dogs, provides permitting requirements and fees, outlines the complaints, reporting, and enforcement process, and provides for revocation language.

This is the first of two public hearings. No action may be taken at this first public hearing.

**ACTION REQUESTED: No action required until the 2<sup>nd</sup> Public Hearing scheduled on October 16, 2018 at 2:00 p.m. All Districts**

JVW/JM/am  
Attachment

ORDINANCE NO. 2018-\_\_\_\_\_

AN ORDINANCE AFFECTING THE USE OF LAND IN  
ORANGE COUNTY, FLORIDA; AMENDING CHAPTER 38  
OF THE ORANGE COUNTY CODE ("ZONING") BY  
AMENDING SECTION 38-79(86) ("CONDITIONS FOR  
PERMITTED USES AND SPECIAL EXCEPTIONS")  
REGARDING OUTDOOR SEATING; CREATING  
SECTION 38-1402 ESTABLISHING A LOCAL  
EXEMPTION TO THE FOOD AND DRUG  
ADMINISTRATION'S FOOD CODE FOR DOGS IN  
DESIGNATED OUTDOOR PORTIONS OF PUBLIC FOOD  
SERVICE ESTABLISHMENTS; AND PROVIDING FOR AN  
EFFECTIVE DATE.

**WHEREAS**, Section 509.233, Florida Statutes, authorizes the governing body of local governments to establish, by ordinance, a local exemption procedure to certain provisions of the Food and Drug Administration Code, as currently adopted by the Florida Division of Hotels and Restaurants, in order to allow patrons' dogs within certain designated outdoor portions of public food service establishments; and

**WHEREAS**, in accordance with Section 509.233, Florida Statutes, any such local exemption procedure adopted shall be codified within the land development code of the participating local government; and

**WHEREAS**, Section 509.233, Florida Statutes, mandates that any participating local government's ordinance includes a permitting process, specific regulations provided for therein, and a mechanism for state and local cooperation regarding the reporting of complaints and the participating local government's enforcement responses to such complaints; and

**WHEREAS**, the County's Board of County Commissioners (the "Board") finds that establishing a local exemption that provides restaurants with outdoor seating the choice to – within the limits of a permit and the regulations found within the ordinance establishing the local exemption for Orange County – serve patrons who wish to be accompanied by their dogs while dining outdoors; and

**WHEREAS**, the Board finds that providing the owners of restaurants the option to obtain a permit so that they may allow their patrons to have their dogs accompany them while dining outdoors is in the interest of providing those restaurant owners more discretion and control over their business decisions.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF  
ORANGE COUNTY, FLORIDA:

***Section 1. Amendments; In General.*** Throughout this ordinance, additions are shown by underlines, deletions are shown by strikethroughs, and asterisks (\*\*\*) indicate portions of text which have not changed.

**Section 2. Amendment to Section 38-79.** Subsection (86) of Section 38-79 (“Conditions for permitted uses and special exceptions”) is amended as follows:

**Section 38-79. Conditions for permitted uses and special exceptions.**

The following numbered conditions shall correlate with the numbers listed in the use table set forth in section 38-77:

\* \* \*

(86) Outdoor seating is permitted subject to the following conditions:

a. All lighting at outdoor seating areas shall be directed away from all residential uses or residential zoning districts;

b. Activity at outdoor seating areas shall comply with chapter 15, article V (noise pollution control), Orange County Code; and

c. All outdoor seating shall be depicted on site plans;

d. Any outdoor seating permitting dogs must comply with section 38-1402 (Dog-Friendly Restaurants).

**Section 3. Creation of Section 38-1402.** Section 38-1402, presently

78 “Reserved” under Article IX (“General Supplemental Regulations”) of Chapter 38, is created to  
read as follows:

80 **ARTICLE IX.**  
82 **GENERAL SUPPLEMENTAL REGULATIONS**

84 \* \* \*

**Sec. 38-1402. Dog-Friendly Restaurants.**

86 **(a) Local Exemption Authorized.** There is hereby  
88 established a local exemption procedure to certain provisions of  
90 the Food and Drug Administration Food Code, as currently  
adopted by the Florida Division of Hotels and Restaurants, in  
order to allow patrons' dogs within certain designated outdoor  
portions of public food service establishments.

92 **(b) Limitations on exemption.**

94 (1) This exemption shall only provide a  
variance to those portions of the currently adopted Food and Drug  
Administration Food Code in order to allow patrons' dogs within  
96 certain designated outdoor portions of public food service  
establishments.

98 (2) Without exception, any dog that has been  
classified or designated as a “dangerous dog” as defined by  
100 section 767.11, Florida Statutes, or for which Orange County's  
Animal Services Division has record of its propensity toward  
102 aggressive behavior, shall not be permitted within any portion of  
a public food service establishment.

104 **(c) Definitions.**

106 (1) *DHR* means the Division of Hotels and  
Restaurants of the State of Florida Department of Business and  
Professional Regulation.

108 (2) *Dog* means an animal fully of the  
subspecies *Canis lupus familiaris*.

110 (3) *Employee(s)* means any person(s) employed  
by, or acting on behalf of, the public food service establishment.

112                   (4) Outdoor dining area means an area that is  
114                   subject to the zoning requirements and associated conditions for  
                      restaurants with outdoor seating as set forth in the use table in  
                      section 38-77.

116                   (5) Patron has the meaning given to "guest" by  
                      section 509.013, Florida Statutes.

118                   (6) Public food service establishment has the  
                      meaning given to it by section 509.013, Florida Statutes.

120                   (d) **Permit requirements.** In order to protect the  
122                   health, safety, and general welfare of the public, participating  
                      public food service establishments shall annually apply for and  
124                   receive a permit from Orange County before allowing patrons'  
                      dogs on their premises. Application for the permit shall be made  
126                   to the county, on a form provided for such purpose, and shall  
                      include, along with any other such information deemed  
128                   reasonably necessary by the county in order to implement and  
                      enforce the provisions of this part, the following information:

130                   (1) The name, location, and mailing address of  
                      the public food service establishment.

132                   (2) The name, mailing address, and telephone  
                      contact information of the permit applicant.

134                   (3) Notarized written authorization from the  
                      owner of the property on which the public food service  
                      establishment is located if the applicant is not the owner.

136                   (4) A diagram and description of the outdoor  
138                   dining area to be designated as available to patrons' dogs,  
                      including dimensions of the designated area; a depiction of the  
140                   number and placement of tables, chairs, and restaurant  
                      equipment, if any; the entryways and exits to the designated area  
142                   and of other areas of outdoor dining not available for patrons'  
                      dogs; any fences or other barriers; surrounding property lines and  
144                   public rights-of-way, including sidewalks and common pathways;  
                      and such other information reasonably required by the county.  
146                   The diagram or plan shall be accurate and to scale but need not be  
                      prepared by a licensed design professional.

148                   (5) A description of the days of the week and  
                      hours of operation which patrons' dogs will be permitted in the  
                      designated outdoor dining area.

150                   (6) A written certification of commercial  
152 general liability insurance and an instrument in which the  
154 applicant and the property owner (if not the applicant) agree to  
156 indemnify and hold harmless Orange County and its Board of  
158 County Commissioners, officers, and employees against liability,  
including court costs and reasonable attorneys' 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.

160                   (7) All application materials shall contain the  
162 appropriate DHR-issued license number for the subject public  
food service establishment.

164                   (8) Payment of a non-refundable application  
166 fee of forty-six dollars (\$46.00).

168                   (e) **Regulations.** In order to protect the health, safety,  
170 and general welfare of the public, and pursuant to section  
172 509.233, Florida Statutes, the following regulations shall apply to  
establishments which obtain such a permit:

174                   (1) All public food service establishments shall  
176 report to Orange County's Animal Services Division any and all  
178 incidents in which, while on the premises of the public food  
service establishment, a dog bites, attacks, endangers, and/or  
inflicts injury upon:

180                   a. Any patron and/or employee of the  
182 public food establishment; or

184                   b. Any other live animal, whether  
186 domestic in nature or not.

188                   (2) Employees shall wash their hands promptly  
190 after touching, petting, or otherwise handling patrons' dogs.

192                   (3) Employees shall be prohibited from  
194 touching, petting, or otherwise handling patrons' dogs while  
196 serving food or beverages or handling tableware or before  
198 entering other parts of the public food service establishment.

200                   (4) Patrons in the designated outdoor dining  
202 area shall be advised that they should wash their hands before  
204 eating. Waterless hand sanitizer shall be provided at all tables in  
206 the designated outdoor dining area.

188                   (5) Employees and patrons shall be instructed  
that they shall not allow dogs to come in to contact with serving  
190 dishes, utensils, tableware, linens, paper products, or any other  
items involved in food service operations. That notwithstanding,  
dishes specifically dedicated for use by dogs shall be permitted.

192                   (6) Patrons shall not leave their dogs  
unattended for any period of time. Patrons at all times shall keep  
194 their dogs on the ground, on a leash, and under control.

196                   (7) Employees and patrons shall not allow any  
part of a dog to be on the chairs, tables, or other furnishings.

198                   (8) All table and chair surfaces shall be cleaned  
and sanitized with an approved product between seating of  
200 patrons. Spilled food and drink shall be promptly removed from  
the floor or ground.

202                   (9) All dog waste shall be cleaned immediately  
and the area sanitized with an approved product. A kit with the  
204 appropriate materials for this purpose shall be kept near the  
designated outdoor area. Dog waste shall not be carried in or  
through indoor portions of the public food service establishment.

206                   (10) At least one sign reminding employees of  
the applicable rules, including those contained in this section, and  
208 those additional rules and regulations, if any, included as further  
conditions of the permit by Orange County, shall be posted on the  
210 premises in a conspicuous location frequented by employees  
within the public food service establishment. The mandatory sign  
212 shall be not less than eight and one-half (8½) inches in width and  
eleven (11) inches in height (8½" × 11") and printed in easily  
214 legible typeface of not less than twenty (20) point font size.

216                   (11) At least one sign reminding patrons of the  
applicable rules, including those contained in this section, and  
218 those additional rules and regulations, if any, included as further  
conditions of the permit by Orange County, shall be posted on the  
220 premises in a conspicuous location within the designated outdoor  
dining area of the public food service establishment. This notice  
222 must include notice to the patrons that dogs that have been  
classified or designated as "dangerous dogs" as defined by  
224 section 767.11, Florida Statutes, or for which Orange County's  
Animal Services Division has record of its propensity toward  
226 aggressive behavior, shall not be permitted within any portion of  
the public food service establishment. The mandatory sign shall

228 be not less than eight and one-half (8½) inches in width and  
eleven (11) inches in height (8½" × 11") and printed in easily  
230 legible typeface of not less than twenty (20) point font size.

230 (12) At all times while the designated outdoor  
dining area of the public food service establishment is available  
232 to patrons and their dogs, at least one sign shall be posted in a  
conspicuous and public location near the entrance to the  
234 designated outdoor dining area, placing patrons on notice that the  
designated outdoor dining area of the public food service  
236 establishment is currently available to patrons accompanied by  
their dog or dogs. The mandatory sign shall not be less than eight  
238 and one-half (8½) inches in width and eleven (11) inches in  
height (8½" × 11") and printed in easily legible typeface of not  
240 less than twenty (20) point font size.

242 (13) The permit issued by the County to the  
public food service establishment pursuant to this section, and the  
244 diagram that was submitted with the permit application, shall  
both be conspicuously displayed in the public food service  
establishment at all times.

246 (14) Dogs shall not be permitted to travel  
through indoor or non-designated outdoor portions of the public  
248 food service establishment, and ingress and egress to the  
designated outdoor dining area of the public food service  
250 establishment must not require entrance into or passage through  
any indoor area of the public food service establishment.

252 (15) The public food service establishment and  
designated outdoor dining area shall comply with all permit  
254 conditions and the approved diagram.

**(f) Permit expiration and renewal.**

256 (1) A permit issued pursuant to this section  
expires one (1) year from the date of issuance and a new permit  
258 must be obtained annually. Failure to obtain a current permit  
within five (5) days of a previous permit's expiration will require  
260 a late fee payment of twenty-five (\$25.00) for the new permit in  
addition to the permit fee.

262 (2) A permit granted pursuant to this section  
shall not transfer to a subsequent owner upon the sale of a public  
264 food service establishment but shall instead expire automatically  
upon the sale of the establishment. The subsequent owner shall



266 be required to apply for a permit pursuant to this section if the  
268 subsequent owner wishes to continue to accommodate patrons'  
dogs.

**(g) Complaints and reporting.**

270 (1) In accordance with section 509.233(6),  
272 Florida Statutes, the county shall accept and document  
274 complaints related to this program within Orange County,  
Florida, and shall report quarterly to the DHR all such complaints  
and the county's enforcement response to such complaints.

276 (2) The county shall also provide the DHR  
278 with a copy of all approved applications and permits issued on a  
quarterly basis.

**(h) Enforcement.**

280 (1) The ultimate responsibility for enforcement  
282 of this section falls upon the permitted public food service  
284 establishment, however, any person who violates any provisions  
of this section may, upon code enforcement action, be punished  
according to Chapter 11, Code Enforcement, of the Orange  
County Code of Ordinances, as may be amended.

286 (2) Any alleged violation of any of the  
288 provisions in this section may also be pursued by appropriate  
290 remedy, whether by injunctive, declaratory, or other civil remedy,  
at the county's option. The provisions of this section may also be  
enforced by the sheriff, deputy sheriffs, and any other authorized  
enforcement officer.

**(i) Revocation of permit.**

292 (1) A permit may be revoked by the Zoning  
294 Manager should the public food service establishment:

296 a. Have its business or health permit,  
and any other state or local license required by law, be  
suspended, revoked, or cancelled;

298 b. Fail to obtain, or maintain, the  
requisite insurance required by this section;

300 c. Fail to comply with approved  
diagram and requirements of this section;

302 d. Receive three (3) notice(s) of  
304 violation of the dog-friendly restaurants ordinance within the  
permitted year;

306 e. Fail to correct a violation of the  
dog-friendly restaurants ordinance, or condition(s) of the permit  
308 issued pursuant to this section, within three (3) days of receipt of  
the correction notice; or

310 f. Be found to have provided false or  
misleading information on the application which was material to  
the approval of the permit.

312 (2) Upon revocation, the Zoning Manager shall  
314 give notice of such action to the public food service  
establishment in writing stating the action taken and the reason  
316 for that action. If the reason for revocation is a failure to maintain  
any required state or local license, the revocation may take effect  
318 immediately upon receipt of the notice of revocation by the  
public food service establishment. Otherwise, such notice shall  
become effective within five (5) days.

320 (3) If a dog-friendly restaurant permit is  
322 revoked, no new permit may be approved for the public food  
service establishment until the expiration of 180 days following  
the date of revocation.

324 **Section 4. Effective date.** This ordinance shall take effect on MONTH, DAY,  
326 YEAR.

**ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2018.**

328 **ORANGE COUNTY, FLORIDA**

330 By: Board of County Commissioners

332 By:

334 \_\_\_\_\_  
Teresa Jacobs  
Orange County Mayor

336 ATTEST: Phil Diamond, CPA, County Comptroller  
338 As Clerk of the Board of County Commissioners

340 By: \_\_\_\_\_  
342 Deputy Clerk

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