

Memorandum



CITY OF DALLAS

DATE April 25, 2008

TO Honorable Members of the Quality of Life Committee:
Pauline Medrano (Chair), Vonciel Jones Hill (Vice Chair), Carolyn R. Davis,
Angela Hunt, Sheffie Kadane, David A. Neumann, Steve Salazar

SUBJECT Amendments to Variances for Dogs on Outdoor Patios

Please find attached a copy of the Amendments to Variances for Dogs on Outdoor Patios briefing. The briefing will be presented for your review on Monday, April 28, 2008.

Please let me know if you need additional information.

A handwritten signature in black ink, appearing to read 'David O. Brown'.

David O. Brown
Interim Assistant City Manager

Attachment

c: The Honorable Mayor and Members of the City Council
Mary K. Suhm, City Manager
Deborah Watkins, City Secretary
Thomas Perkins, City Attorney
Craig D. Kinton, City Auditor
Judge Jay E. Robinson
Ryan S. Evans, First Assistant City Manager
Ramon F. Miguez, P.E., Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
A.C. Gonzalez, Assistant City Manager
David K. Cook, Chief Financial Officer

AMENDMENTS TO VARIANCES FOR DOGS ON OUTDOOR PATIOS

Presented to the Neighborhood Quality of Life

Environmental and Health Services Department
Food Protection and Education
April 28, 2008



PURPOSE

- Update on proposed changes to Chapter 17, “Food Establishments,” of the Dallas City Code requested by the restaurant owners.
- Modify variance standards for allowing dogs on outdoor patios of permitted food establishments.

BACKGROUND

- On January 24, 2007 the Dallas City Council adopted amendments to Chapter 17, “Food Establishments,” of the Dallas City Code.

- Amendments provided for a variance from Chapter 17 and state law to allow dogs on outdoor patios of food establishments, under the following conditions and standards:
 - A separate entrance must be provided from the outside of the food establishment to the outdoor patio.
 - A “dog friendly restaurant” sign must be posted at the front entrance of the establishment so that it is easily visible to the public.
 - Air curtains must be provided to separate the outdoor patio from the interior of the food establishment.

BACKGROUND (Cont'd)

- No food preparation, including mixing drinks or serving ice, may be performed in the outdoor patio area.
- The outdoor patio must be cleaned at least every 30 minutes with animal friendly chemicals whenever a dog is present.
- Equipment used to clean the outdoor patio must be kept outside of the food establishment.
- Wait staff or other food handlers at the food establishment may not pet or have contact with any dog.
- A dog must be wearing a collar with a current rabies tag, kept on leash and in control of the customer.
- A dog is not allowed on any seat, table, or countertop on the patio or to have contact with any dishes or utensils used for food service or preparation at the food establishment.

BACKGROUND (Cont'd)

- Six restaurants have applied for variances to allow dogs on outdoor patios. No applications have completed the process.
- On July 2007, Councilmembers Angela Hunt and Dr. Elba Garcia met with EHS staff and Chairman of the Dallas Animal Shelter Commission to discuss areas of concern.
- On August 9, 2007, the Dallas Animal Shelter Commission unanimously approved all the proposed amendments to the ordinance.
- Meeting was held with Councilmembers and representatives of various restaurants expressing concerns about one or more conditions and standards to allow dogs on outdoor patios.
- On January 28, 2008, meeting was held between EHS staff and Greater Dallas Restaurant Association to discuss concerns.
- Briefing to Neighborhood Quality of Life Committee on February 25, 2008 on the proposed amendments.
- Meeting was held on March 31, 2008 between Greater Dallas Restaurant Association, Councilmember Vonciel Jones Hill, Councilmember Sheffie Kadane, and EHS staff to gather additional input, review proposed amendments, and to address concerns.

AREAS OF CONCERN

from meeting with
Greater Dallas Restaurant Association
January 28, 2008

- Installation of the air curtain at the doorway is expensive
 - Cost is from \$650 up to \$2,000 depending on the size of the unit

- Cleaning the outdoor patio every 30 minutes is not feasible.

- Clarification 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.

EARLIER PROPOSED AMENDMENTS TO THE VARIANCE STANDARDS

to

Neighborhood Quality of Life Committee
February 25, 2008

- Install a self closing device on each food establishment door that provides access to the patio.
- Prohibit dogs within 7 feet of any door accessing the interior of the food establishment except when exiting or entering the patio.
- Whenever dogs have been present on patio, hose/mop patio with animal friendly chemicals every 6 hours or before each shift.
- Clean for dog's bodily functions within five minutes after each occurrence.
- Maintain patio free of visible dog hair, dander, and related waste or debris.

AREAS OF CONCERN

from

Neighborhood Quality of Life Committee Meeting

February 25, 2008

- During the Neighborhood Quality of Life briefing, additional concerns were raised regarding the signage, dogs fed from the table and cleaning outdoor patio.
 - Signage: “A dog friendly restaurant”
 - A dog is not allowed on any seat, table, or countertop on the patio or allowed to have contact with any dishes or utensils used for food service or preparation at the establishment
 - The outdoor patio must be continuously maintained free of visible dog hair, dog dander and other dog-related waste or debris
 - Concern that six hours was too long between cleanings
- Based on this, it was agreed to meet later with the executive director of Greater Dallas Restaurant Association, Council Members and EHS staff.

ADDITIONAL PROPOSED AMENDMENTS

from meeting with

Greater Dallas Restaurant Association, Council Members Vonciel Hill, Sheffie Kadane and EHS Staff
March 31, 2008

The following agreements were made to address the concerns:

- The outdoor patio must be continuously maintained free of visible dog hair, dog dander, and other dog-related waste or debris.
- 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.”
- 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.

ALL PROPOSED AMENDMENTS TO THE VARIANCE STANDARDS

1. Install a self closing device on each food establishment door that provides access to the patio.
2. Prohibit dogs within 7 feet of any door accessing the interior of the food establishment except when exiting or entering the patio.
3. Whenever dogs have been present on patio, hose/mop patio with animal friendly chemicals every 6 hours or before each shift.
4. Clean for dog's bodily functions within five minutes after each occurrence.
5. The outdoor patio must be continuously maintained free of visible dog hair, dog dander, and other dog-related waste or debris.
6. 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."
7. 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.

REVISED PROPOSED AMENDMENTS

NEXT STEPS

- Recommend Neighborhood Quality of Life Committee approve the proposed changes.
- The proposed ordinance will be brought forth for Council approval – May 28, 2008.

DRAFT

4/1/08

ORDINANCE NO. _____

An ordinance amending Section 17-10.2 of CHAPTER 17, "FOOD ESTABLISHMENTS," of the Dallas City Code, as amended; revising standards and conditions for granting variances to allow dogs on outdoor patios of food establishments; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Subsection (s) of Section 17-10.2, "Additional Requirements," of Article X, "Compliance and Enforcement," of CHAPTER 17, "FOOD ESTABLISHMENTS," of the Dallas City Code, as amended, is amended to read as follows:

"(s) Variances.

(1) A food establishment may apply to the director for a variance modifying or waiving the requirements of the Texas Food Establishment Rules or the requirements of this chapter. The food establishment shall apply for the variance on a form provided by the director and shall include in the application all of the information required by Section 229.171(c)(2) of the Texas Food Establishment Rules. The application must be accompanied by a nonrefundable application fee of \$100.

(2) The director may grant a variance by modifying or waiving the requirements of the Texas Food Establishment Rules [as authorized in Section 229.171(c) of the Texas Food Establishment Rules] or the requirements of this chapter if, in the opinion of the director, a health hazard or nuisance will not result from the variance.

(3) If a variance is granted, the director shall retain in its records for the food establishment the information provided by the applicant under Section 229.171(c)(2) of the Texas Food Establishment Rules. A food establishment granted a variance shall comply with Section 229.171(c)(3) of the Texas Food Establishment Rules and any conditions or standards for the variance established by the director or this chapter.

(4) A variance granted under this section is nontransferable. The variance expires two years after the date it is granted by the director, unless it is sooner revoked by the director 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 director shall deny or revoke a variance under this section if:

(A) the food establishment made a false statement as to a material matter on or in connection with the request for the variance or on or in connection with the permit application for the food establishment;

(B) the food establishment does not hold a valid permit issued under this chapter;

(C) the director 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 director, this chapter, or state law.

(6) If the director denies or revokes a variance, the director 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 Subsection (q) of this section.

(7) If, pursuant to this section, the director grants a variance to Section 229.167(p)(15) of the Texas Food Establishment Rules (which prohibits animals on the premises of a food establishment) to allow 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 director for the variance:

(A) Except as allowed under Section 229.167(p)(15) of the Texas Food Establishment Rules, 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 on an outdoor patio 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 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 [RESTAURANT] – DOG ACCESS ONLY THROUGH OUTDOOR PATIO.”

(D) Doors equipped with self-closing devices [~~Air curtains~~] must be provided at all entrances to [~~separate~~] the outdoor patio from the interior of the food establishment.

(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 [~~cleaned at least every 30 minutes~~] with animal friendly chemicals 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 six 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. Waste created from a dog’s bodily functions must be cleaned up with animal friendly chemicals within five minutes after each occurrence. All dog [~~whenever a dog is present, and the~~] 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.

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

(H) A dog must be kept on a leash and remain in the 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.

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

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

(K) 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.

(8) An owner, officer, manager, or other person in charge of a food establishment commits an offense if he, either personally or through an employee or agent, violates, allows a violation of, or fails to comply with a term or condition of a variance granted under this section.”

SECTION 2. That CHAPTER 17 of the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance. Any proceeding, civil or criminal, based upon events that occurred prior to the effective date of this ordinance are saved, and the former law is continued in effect for that purpose.

SECTION 3. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 4. That this ordinance will take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By _____
Assistant City Attorney

Passed _____

LC/DCC/00429A