

ORDINANCE NO. 2018-10

AN ORDINANCE BY THE TOWN OF WINDERMERE, FLORIDA, AMENDING THE TOWN OF WINDERMERE LAND DEVELOPMENT CODE; TO CREATE A NEW SECTION ARTICLE VI, SECTION 6.07.07 – DOG-FRIENDLY DINING; ESTABLISHING A LOCAL EXEMPTION TO THE FOOD AND DRUG ADMINISTRATION'S FOOD CODE ADOPTED BY THE FLORIDA DIVISION OF HOTELS AND RESTUARANTS FOR DOGS IN DESIGNATED OUTDOOR PORTIONS OF PUBLIC FOOD SERVICE ESTABLISHMENTS; AND PROVIDING FOR INCLUSION OF SUCH AMENDED SECTIONS IN THE CODE OF ORDINANCES AND LAND DEVELOPMENT CODE OF THE TOWN OF WINDERMERE, FLORIDA; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH TO THE EXTENT OF SUCH CONFLICT; PROVIDING FOR SEVERABILITY, CODIFICATION, AND 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, the **Town Council** finds that establishing a local exemption that provides restaurants with outdoor seating the choice to serve patrons who wish to be accompanied by their dogs while dining outdoors within the limitations and regulations of this ordinance; and

WHEREAS, the **Town Council** 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.

NOW, THEREFORE, BE IT ORDAINED by the **Town Council of the Town of Windermere, Florida**, that the following Article VI, Section 6.07.07 – Dog-Friendly Dining within the Town's Land Development Code is hereby adopted.

Section 1. Amendments to the Town of Windermere's Code of Ordinances. Article VI, Section 6.07.07 of the Land Development Code of Windermere, Florida is hereby created as shown in the language as follows:

ARTICLE VI, SECTION 6.07.07 - DOG-FRIENDLY DINING

SECTION 6.07.07. – DOG-FRIENDLY DINING

- (a) The purpose and intent of this part is to implement the option established by F.S. § 509.223, by permitting public food service establishments within the Town of Windermere, Florida, subject to the terms and contained herein, to become exempt from certain portions of the United States Food and Drug Administration Food Code, as amended from time to time, and as adopted by the State of Florida Division of Hotels and Restaurants of the Department of Business and Professional Regulation, in order to allow patrons' dogs within certain designated outdoor portions of their respective establishments.
- (b) Pursuant to F.S. § 509.233(2), there is hereby created in the Town of Windermere, Florida, a local exemption procedure to certain provisions of the United States Food and Drug Administration Food Code, as amended from time to time, and as adopted by the State of Florida Division of Hotels and Restaurants of the Department of Business and Professional Regulation, in order to allow patrons' dogs within certain designated outdoor portions of public food service establishments, which exemption procedure may be known as the Town of Windermere Dog-Friendly Dining.
- (c) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
- Division* means the Division of Hotels and Restaurants of the State of Florida Department of Business and Professional Regulation.
- Dog* means an animal of the subspecies *Canis lupus familiaris*.
- Outdoor area* means an area adjacent to a public food service establishment that is predominantly or totally free of any physical barrier on all sides and above.
- Patron* has the meaning given to "guest" by F.S. § 509.013.
- Public food service establishment* has the meaning given it by F.S. § 509.013.
- (d) In order to protect the health, safety, and general welfare of the public, a public food service establishment is prohibited from having any dog on its premises unless it possesses a valid permit issued in accordance with this part.
- (e) Applications for a permit under this part shall be made to the Town Manager, on a form provided for such purpose by the Town Manager, and shall include, permit fees as determined by the Town Council, along with any other such information deemed reasonably necessary by the Town Manager in order to implement and enforce the provisions of this part, the following:
- (1) The name, location, and mailing address of the subject public food service establishment.
 - (2) The name, mailing location, 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 any other areas of outdoor dining not available for patrons' dogs; any fences or other barriers; surrounding property lines and public rights-of-way, including sidewalks and common

pathways; and such other information reasonably required by the Town Manager. 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) All application materials shall contain the appropriate Division issued license number for the subject public food service establishment.
 - (6) The Town Manager shall have authority to approve or deny applications.
 - (7) Permits issued under this part shall be valid for one (1) year from the date of issuance and must be renewed each year.
- (f) In order to protect the health, safety, and general welfare of the public, and pursuant to F.S. § 509.233, all permits issued pursuant to this part are subject to the following requirements:
- (1) All public food service establishment employees shall wash their hands promptly after touching, petting, or otherwise handling any dog. Employees shall be prohibited from touching, petting, or otherwise handling any dog 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) At least one sign reminding employees of the applicable rules, including those contained in this part, and those additional rules and regulations, if any, included as further conditions of the permit by the Town Manager, shall be posted in a conspicuous location frequented by employees within the public food service establishment. The mandatory sign shall be not less than eight and one-half (8 ½) inches in width and eleven (11) inches in height and printed in easily legible typeface of not less than 20-point font size.

- (9) At least one sign reminding patrons of the applicable rules, including those contained in this part, and those additional rules and regulations, if any, included as further conditions of the permit by the Town manager, shall be posted in a conspicuous location within the designated outdoor portion of the public food service establishment. The mandatory sign shall be not less than eight and one-half (8 ½) inches in width and eleven (11) inches in height and printed in easily legible typeface of not less than 20-point font size.
- (10) At all times while the designated outdoor portion of the public food service establishment is available to patrons and their dogs, at least one sign shall be posted in a conspicuous and public location near the entrance to the designated outdoor portion of the public food service establishment, the purpose of which shall be to place patrons on notice that the designated outdoor portion of the public food service establishment is currently available to patrons accompanied by their dog or dogs. The mandatory sign shall be not less than eight and one-half (8 ½) inches in width and eleven (11) inches in height and printed in easily legible typeface of not less than 20-point font size.
- (11) Dogs shall not be permitted to travel through indoor or undesignated outdoor portions of the public food service establishment, and ingress and egress to the designated outdoor portions of the public food service establishment shall not require entrance into or passage through any indoor or undesignated outdoor portion of the public food service establishment.
- (12) Without exception, any dog that has been classified as a “dangerous dog” as defined by F.S. §767.11, or for which Orange County’s Animal Services Division has record of its propensity toward aggressive behavior, shall not be permitted within any portion of a public food service establishment.
- (13) A permit issued pursuant to this part shall not be transferred to a subsequent owner upon the sale or transfer of a public food service establishment but shall expire automatically upon such sale or transfer. The subsequent owner shall be required to reapply for a permit pursuant to this part if such owner wishes to continue to accommodate patrons' dogs.
- (14) In accordance with F.S. § 509.233(5), the Town Manager shall accept, and document complaints related to dog-friendly dining within the Town of Windermere, Florida, and shall timely report to the Division all such complaints and the Town's enforcement response to such complaint. The Town Manager shall also timely provide the Division with a copy of all approved applications and permits issued pursuant to this part.
- (15) Any public food service establishment that fails to comply with the requirements of this part shall be guilty of violating this part of the Town of Windermere Code and shall be subject to any and all enforcement proceedings consistent with the applicable provisions of the Town of Windermere Code and general law. Each day a violation exists shall constitute a distinct and separate offense.

Section 2. Codification. It is the intention of the Town Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Town of Windermere, Florida, and the publisher of the Code may renumber, reclassify, or otherwise insert this Ordinance in an appropriate place to accomplish such intention.

Section 3. Repeal. All Ordinances or parts of Ordinances in conflict with the provisions of this

Ordinance are hereby repealed.

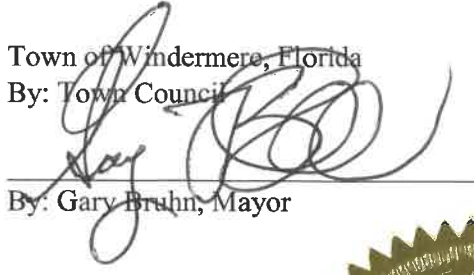
Section 4. Severability. If a Court of competent jurisdiction at any time finds any provision of this Ordinance to be unlawful, illegal, or unenforceable, the offending provision shall be deemed severable and removed from the remaining provisions of this Ordinance which shall remain in full force and intact.

Section 5. Effective Date. This Ordinance shall take effect immediately upon its enactment.

ENACTED this 11th day of December, 2018, at a regular meeting of the Town Council of the Town of Windermere, Florida.

Town of Windermere, Florida

By: Town Council


By: Gary Bruhn, Mayor

Attest:


Dorothy Burkhalter, MMC, FCRM
Town Clerk

First reading: November 13, 2018

Second reading: December 11, 2018

