

1 WHEREAS, Section 509, Florida Statutes, expressly preempts to the state the
2 regulation of public lodging establishments and public food service establishments for
3 compliance with the sanitation standards adopted by the Division; and
4

5 WHEREAS, Section 509, Florida Statutes, provides an exemption to Section
6 509, Florida Statutes, by authorizing the governing body of a local government to
7 establish, by ordinance, a local exemption procedure to certain provisions of the Food
8 Code in order to allow patrons' dogs within certain designated outdoor portions of public
9 food service establishments;
10

11 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON
12 COUNTY, FLORIDA, that:

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14 **SECTION 1.** Chapter 10, Article VI, Division 8 of the Code of Laws of Leon County,
15 Florida, is hereby amended by adding a new section to be numbered Section 10-6.818
16 and entitled "Outdoor Dog Friendly Dining Areas," to read as follows:
17

18 **Section 10-6.818. Outdoor Dog Friendly Dining Areas.**
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20 (1) *Purpose and Intent.* The purpose and intent of this section is to implement
21 the program authorized by F.S. 509 by permitting public food service establishments
22 within Leon County, Florida, subject to the terms and contained herein, to become
23 exempt from certain portions of the United States Food and Drug Administration Food
24 Code, as amended from time to time, and as adopted by the State of Florida Division of
25 Hotels and Restaurants of the Department of Business and Professional Regulation, in
26 order to allow patrons' dogs within certain designated outdoor portions of their
27 respective establishments. This ordinance shall be known as the Outdoor Dog Friendly
28 Dining Program.
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30 (2) In order to protect the health, safety, and general welfare of the public, a
31 public food service establishment is prohibited from having any dog on its premises
32 unless it possesses a valid permit issued in accordance with this section.
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34 (3) Service dogs covered under the American's with Disabilities Act (ADA) of
35 1990, 42 U.S.C. 12101 et. seq., as amended, are exempt from this Ordinance. Under
36 the ADA, State and local governments, business, and nonprofit organizations that serve
37 the public generally must allow service animals to accompany people with disabilities in
38 all such areas of the facility where the public is normally allowed.
39

40 (4) *Scope.* This section applies to public food service establishments located
41 within the jurisdictional limits of Leon County lying outside the municipal limits of the City
42 of Tallahassee.
43

44 (5) *Definitions.* Terms used in this section shall have the following meaning:
45

- 1 (a) *Division* means the Division of Hotels and Restaurants of the State
2 of Florida Department of Business and Professional Regulation
3 (DBPR).
4
5 (b) *Dog* means the domestic dog, *Canis familiaris*, or any of the various
6 other animals of the family *Canidae*.
7
8 (c) *Outdoor Area* means an area adjacent to a public food service
9 establishment that is predominantly free of any physical barrier on
10 all sides and above.
11
12 (d) *Patron* has the meaning given to “guest” by Section 509, Florida
13 Statutes.
14
15 (e) *Public food service establishment* has the meaning given it by
16 Section 509, Florida Statutes.
17

18 (6) *Application Requirements.*
19

- 20 (a) Applications for a designated outdoor dog dining area permit under
21 this section shall be made to the County Administrator or designee,
22 and shall include, along with any other such information deemed
23 reasonably necessary by the County Administrator or designee in
24 order to implement and enforce the provisions of this section, the
25 following:
26
27 1. The name, location, mailing address, telephone contact
28 information, and e-mail address of the subject public food
29 service establishment.
30
31 2. The name, location, mailing address, telephone contact
32 information and e-mail address of the permit applicant.
33
34 3. Written authorization to obtain the permit from the owner of
35 the property on which the public food service establishment
36 is located if the applicant is not the owner.
37
38 4. A diagram and description of the outdoor area to be
39 designated as available to patrons’ dogs, including
40 dimensions of the designated area; a depiction of the
41 number and placement of tables, chairs, and restaurant
42 equipment, if any; the entryways and exits to the designated
outdoor area; boundaries of the designated area and any

1 other areas of outdoor dining not available for patrons' dogs;
2 any fences or barriers; surrounding property lines and public
3 rights-of-way, including sidewalks and common pathways;
4 and such other information reasonably required by the
5 County Administrator or designee. The diagram or plan shall
6 be accurate and to scale but need not be prepared by a
7 licensed design professional.
8

- 9 5. A description of the days of the week and hours of operation
10 that patrons' dogs will be permitted in the designated
11 outdoor area.
12
13 6. The license number issued by the Division for the public food
14 service establishment.
15
16 7. Payment of an application review fee as established by the
17 Fee Schedule approved by the Board of County
18 Commissioners and on file with the Leon County Department
19 of Development Support and Environmental Management
20 (DSEM).
21

22 (7) *Permit issuance.* Upon the submittal of the required documents and
23 application review fee to DSEM, the County Administrator, or designee, shall review and
24 approve the application for the designated outdoor dog dining area. The County may
25 impose additional conditions as necessary in order to protect the health, safety, and
26 welfare of the community.
27

28 (8) *Permit renewal.* The permit shall be renewed annually, on or before
29 October 1st, by submitting an application and the renewal fee as established by the Fee
30 Schedule on file with DSEM. If the permit renewal application is received five (5) days
31 or later past October 1st a late fee shall be assessed in addition to the annual permit
32 renewal fee.
33

34 (9) *Permit transferability.* A permit issued pursuant to this section shall not be
35 transferred to a subsequent owner upon the sale or transfer of a public food service
36 establishment, but shall expire automatically upon such sale or transfer. The
37 subsequent owner shall be required to apply for a permit pursuant to this section if such
38 owner wishes to continue to accommodate patrons' dogs.
39

40 (10) *Public food service establishment requirements.* In order to protect the
41 health, safety, and welfare of the public, and pursuant to Section 509, Florida Statutes,

1 public food service establishments that receive a permit to allow dogs in a designated
2 outdoor area shall comply with the following requirements:

3
4 (a) All public food service establishment employees shall wash their
5 hands promptly after touching, petting, or otherwise handling any
6 dog. Employees shall be prohibited from touching, petting, or
7 otherwise handling any dog while serving food or beverages or
8 handling tableware or before entering any other parts of the public
9 food service establishment.

10
11 (b) Patrons in a designated outdoor area shall be advised that they
12 should wash their hands before eating. Waterless hand sanitizer
13 shall be provided at tables in the designated outdoor area.

14
15 (c) Employees and patrons shall be instructed that they shall not allow
16 dogs to come into contact with serving dishes, utensils, tableware,
17 linens, paper products, or any other items involved in food service
18 operations.

19
20 (d) Patrons shall keep their dogs on a leash at all times and shall keep
21 their dogs under reasonable and direct control.

22
23 (e) Dogs shall not be allowed on chairs, tables, or other furnishings.

24
25 (f) All table and chair surfaces shall be cleaned and sanitized with an
26 approved product between seating of patrons. Spilled food and
27 drink shall be removed from the floor or ground between seating of
28 patrons.

29
30 (g) Accidents involving dog waste shall be cleaned immediately and
31 the area sanitized with an approved product. A kit with the
32 appropriate materials for this purpose shall be kept near the
33 designated outdoor area.

34
35 (h) At least one sign reminding employees of the applicable rules,
36 including those contained in this section, and those additional rules
37 and regulations, if any, included as further conditions of the permit
38 by the County Administrator or designee, shall be posted in a
39 conspicuous location frequented by employees within the public
40 food service establishment. The mandatory sign shall be not less

1 than eight and one-half inches in width and eleven inches in height
2 (8 ½ x 11) and printed in easily legible typeface of not less than
3 twenty (20) point font size.
4

5 (i) At least one sign reminding patrons of the applicable rules,
6 including those contained in this section, and those additional rules
7 and regulations, if any, included as further conditions of the permit
8 by the County Administrator or designee, shall be posted in a
9 conspicuous location frequented by employees within the public
10 food service establishment. The mandatory sign shall be not less
11 than eight and one-half inches in width and eleven inches in height
12 (8 ½ x 11) and printed in easily legible typeface of not less than
13 twenty (20) point font size.
14

15 (j) At all times while the designated outdoor portion of the public food
16 service establishment is available to patrons and their dogs, at least
17 one sign shall be posted in a conspicuous and public location near
18 the entrance to the designated outdoor portion of the public food
19 service establishment, the purpose of which shall be to place
20 patrons on notice that the designated outdoor portion of the public
21 food service establishment is currently available to patrons
22 accompanied by their dog or dogs. The mandatory sign shall be
23 not less than eight and one-half inches in width and eleven inches
24 in height (8 ½ x 11) and printed in easily legible typeface of not less
25 than twenty (20) point font size.
26

27 (k) Dogs shall not be permitted to travel through indoor or
28 undesignated outdoor portions of the public food service
29 establishment, and ingress and egress to the designated outdoor
30 portions of the public food service establishment shall not require
31 entrance into or passage through any indoor or undesignated
32 outdoor portion of the public food service establishment.
33

34 (11) *Complaints.* In accordance with Section 509, Florida Statutes, the County
35 Administrator or designee shall accept and document complaints related to the Outdoor
36 Dog Friendly Dining Program within the County, and shall report to the Division all such
37 complaints and any County-related enforcement actions. The County Administrator or
38 designee shall provide the Division with a copy of all approved applications and permits
39 issued on an annual basis.
40

1 (12) *Enforcement.* Any public food service establishment allowing dogs within
2 an unpermitted outdoor dining area shall be found in violation of Section 10-6.818 of the
3 Leon County Land Development Code and shall be subject to any and all enforcement
4 proceedings consistent with the applicable provisions of the LDC and general law.

5
6 (a) If the public food service establishment fails to acquire the proper
7 permit or fails to cease performing the unpermitted activity within the
8 time allowed after receipt of a notice of violation, the public food
9 service establishment may be subject to enforcement pursuant to the
10 code enforcement procedures established in Chapter 6 of the Leon
11 County Code of Laws.

12
13 (b) Any public food service establishment that violates Section 10-6.818 of
14 the Leon County Land Development Code shall be punished as
15 provided in Chapter 1, Section 1-9 of the Leon County Code of Laws.
16 Each day the violation exists shall constitute a separate violation for
17 the purposes of this Ordinance and shall be punishable as such.

18
19 (13) *Revocation.* Any public food service establishment that fails to comply
20 with the permitted outdoor dog dining area as provided in the application diagram
21 approved with the permit shall be guilty of violating Section 10-6.818 of the Leon County
22 Land Development Code and shall be subject to any and all enforcement proceedings
23 consistent with the applicable provisions of the LDC and general law.

24
25 (a) The County Administrator or designee may revoke a permit for
26 violation of the designated outdoor dog dining area if after notice
27 and reasonable time in which the grounds for revocation may be
28 corrected, the public food service establishment fails to comply with
29 any of the standards, any condition of approval, fails to comply with
30 the diagram or plans, or fail to maintain any required state or local
31 license. Prior to revocation, the County Administrator or designee
32 shall provide to the public food service establishment the following:

- 33
34 1. A written notice of intent to revoke the permit shall be
35 provided to the applicant by certified mail;
36
37 2. A seven (7) calendar day opportunity to cure the alleged
38 violation, or an opportunity to be heard prior to revocation.
39

1 (b) The decision to revoke a permit may be appealed to the Board of
2 Adjustment and Appeals (“BOAA”). The decision of the BOAA shall
3 constitute final action subject to judicial review. Any appeal of a
4 revocation decision shall be made no later than thirty (30) calendar
5 days of receipt of a notice of revocation by filing a written notice of
6 appeal with the BOAA, along with the applicable appeal fee.
7 Failure to file a written notice of appeal and appeal fee within the
8 prescribed time period constitutes a waiver of the right to appeal.
9

10 (c) If revoked, an owner may not reapply for a period of 12 months
11 from the date of revocation.

12
13 (14) *Liability.* Prior to issuance of a permit, the applicant shall submit to the
14 County Administrator or designee a signed instrument agreeing to indemnify and hold
15 harmless the County and its council members, officers, employees, and attorneys. The
16 signed instrument shall be in a form acceptable to the County Attorney and County
17 Administrator or designee, but at a minimum the instrument shall state the applicant will
18 indemnify and hold the County harmless against liability, including court costs and
19 reasonable attorney’s fees, through all appellate proceedings, for any and all claims for
20 damage to property, or injury to, or death of, persons arising out of or resulting from the
21 issuance of the permit.
22

23 **SECTION 2.** Conflicts. All ordinances or parts of ordinances in conflict with the
24 provisions of this Ordinance are hereby repealed to the extent of such conflict, as of the
25 effective date of this Ordinance, except to the extent of any conflicts with the
26 Tallahassee-Leon County Comprehensive Plan, as amended, which provisions shall
27 prevail over any parts of this Ordinance which are inconsistent, either in whole or in
28 part, with the Comprehensive Plan.
29

30 **SECTION 3.** Severability. If any section, subsection, sentence, clause, phrase or
31 portion of this section is for any reason held invalid or unconstitutional by any court of
32 competent jurisdiction, such portion shall be deemed a separate, distinct, and
33 independent provision and such holding shall not affect the validity of the remaining
34 portions of this Ordinance.
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36 **SECTION 4.** Effective Date. This Ordinance shall become effective July 1, 2016 upon
37 adoption by the Board of County Commissioners.
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1 DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon
2 County, Florida, this 12th day of April, 2016.

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LEON COUNTY, FLORIDA



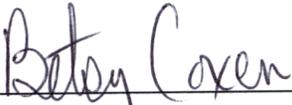
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BY:



BILL PROCTOR, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS

ATTEST:
BOB INZER, CLERK OF THE COURT
AND COMPTROLLER
LEON COUNTY, FLORIDA

BY:  _____

APPROVED AS TO FORM:
LEON COUNTY ATTORNEY'S OFFICE

BY:  _____
HERBERT W.A. THIELE, ESQ.
COUNTY ATTORNEY