

Sec. 18.120. - Variance to allow dogs in outdoor eating areas.

- (a) A food establishment may apply for a dining with dogs variance waiving the prohibition against dogs at a food establishment as permitted by local and state law.
  - (1) The variance will be granted if the health authority determines a health hazard or nuisance will not result from the granting of the variance.
  - (2) The food establishment must submit an application for a variance on a form provided by the health authority and pay a nonrefundable application fee.
    - a. Upon request of the food establishment, before accepting an application for a variance and the accompanying application fee, the health authority may schedule one preliminary meeting with a representative of the food establishment to review the proposed variance request, and provide comments to or answer questions regarding the request.
  - (3) A variance granted under this section is nontransferable and shall be reviewed every two years.
- (b) The health authority may grant a variance in accordance with the variance process as defined in state law to allow dogs on the premises of a food establishment's outdoor patio or outdoor dining area, only in accordance with the following standards and conditions intended to prevent a health hazard or nuisance:
  - (1) Except as allowed under state law, no dog may enter or be present inside the food establishment or on any playground area of the food establishment;
  - (2) A separate entrance must be provided from the outside of the food establishment to the outdoor patio or outdoor dining area 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.
  - (3) Signage provided by the health authority must be posted at the front entrance and at the separate entrance to the outdoor patio or outdoor dining area of the food establishment to be easily visible to the public. The signage at the front entrance must read: DOG FRIENDLY ACCESS (with an arrow showing the direction to the outdoor patio or dining entrance) NO DOGS THROUGH MAIN ENTRANCE. Signage to the outdoor patio or outdoor dining area must read: DOG ACCESS. In addition, one or more signs promulgated by the health authority outlining the dog dining rules shall be posted in conspicuous locations as determined by the health authority. Doors equipped with self-closing devices must be provided at all entrances to the outdoor patio or outdoor dining area from the interior of the food establishment;
  - (4) No food preparation, including mixing drinks or serving ice, may be performed in the outdoor patio or outdoor dining area, except that a beverage glass may be filled from a pitcher or other container that has been filled or otherwise prepared inside the food establishment;
  - (5) The food establishment shall have hand sanitizer available at or near all entrances and exits to the outdoor patio or outdoor dining area;
  - (6) The outdoor patio or outdoor dining area must be continuously maintained free of visible dog hair, dog dander, and other dog-related waste or debris. Any portion of the outdoor patio or outdoor dining area with impervious cover must be cleaned 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. Waste created from a dog's bodily functions must be cleaned up with animal friendly chemicals within five minutes after each occurrence.
  - (7) All dog waste must be disposed of outside of the food establishment in an appropriate waste receptacle. Equipment used to clean the outdoor patio or outdoor dining area must be kept outside of the food establishment. Cleaning under this subsection is not required if no dog has been present in the outdoor patio or outdoor dining area since the last cleaning;

- (8) While on duty, wait staff or other food handlers at the food establishment, may not pet or have contact with any dog;
  - (9) A dog must be kept on a leash and remain in the control of the owner while in the outdoor patio or outdoor dining area. The dog must be currently vaccinated for rabies and wear a collar or harness with a current rabies tag attached to it;
  - (10) A dog is not allowed on a seat, table, countertop, or similar surface;
  - (11) A dog is not allowed to have contact with any dish, utensil, tableware, linen, paper product, or any other item used for food service;
  - (12) A dog may not be given any food (including, but not limited to, dog kibble, biscuits, and edible treats) while in the outdoor patio or outdoor dining area, but may be given water in a disposable container or from a container provided by the owner;
  - (13) The food establishment must maintain written procedures to notify city animal services of any rabies control incidents, or any other incident involving any sort of altercation between two or more dogs where the dogs come into physical contact;
  - (14) The food establishment shall provide a training program to all employees related to dog dining that is completed once a year. Training for new employees must be completed within 14 days of hire. The training shall include a review of this section and the terms of the variance for the food establishment; and
  - (15) The food establishment shall require each employee to sign a form acknowledging that they have completed the training program and understand this section and the terms of the variance. The form shall, at a minimum, contain the employee's name, address, phone number, the person conducting the training and the date of the training. The forms shall be available upon request during inspections or investigations of complaints.
- (c) An owner, manager, or other person in charge of a food establishment commits an offense if they, either personally or through an employee or agent, violate, allow a violation of, or fail to comply with a term or condition of a variance granted under this section.
  - (d) A food establishment granted a variance under this section shall comply with all other applicable Texas Food Establishment Rules and the provisions of this chapter.
  - (e) The city may deny or revoke a variance under this section if the food establishment is in violation of any term or condition of the variance as established by this section or state law. The process established in section 18.119 for the revocation of a food establishment permit will be followed when it is determined a violation of this section has occurred.

(Ord. No. [2019-13](#), § 1, 5-21-19)