

ORDINANCE NO. 2019-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS REPEALING SECTION 18.120 OF THE SAN MARCOS CITY CODE PERTAINING TO THE ISSUANCE OF A VARIANCE TO ALLOW DOGS IN OUTDOOR EATING AREAS BECAUSE TEXAS HEALTH AND SAFETY CODE SECTION 437.025 NOW ALLOWS RESTAURANT CUSTOMERS TO BRING DOGS INTO OUTDOOR DINING AREAS UNDER CERTAIN SPECIFIED CONDITIONS AND PREEMPTS MORE STRINGENT LOCAL ORDINANCES ON THIS SUBJECT; AND PROVIDING AN EFFECTIVE DATE.

Recitals:

1. On August 18, 2015 the San Marcos City Council adopted an ordinance to add Section 18.120 to the City Code to provide a variance process to allow dogs in outdoor dining areas under certain circumstances.
2. Senate Bill 476, adopted by the 86th Texas Legislature and signed by the Governor on June 3, 2019, amends the Texas Health and Safety Code by adding a new section, Section 437.025, to prohibit the local regulation of dogs in outdoor dining areas of food service establishments. That statute also provides the conditions under which customers may bring dogs into outdoor dining areas in restaurants that choose to allow customers to be accompanied by dogs.
3. Senate Bill 476 became effective on September 1, 2019.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. Section 18.120 of the San Marcos City Code pertaining to the regulation of dogs in an outdoor dining area of a food services establishment is hereby repealed in its entirety and shall not be observed or enforced in any manner within the City of San Marcos, Texas.

SECTION 2. Municipal Code Corporation is hereby directed to codify the following note regarding repeal of the former Section 18.120 in both the online and printed versions of the San Marcos Code:

“Former Section 18.120, providing a process allowing a food establishment to apply for a variance to allow dogs on the premises under certain conditions, was repealed by Ordinance No. 2019-30, effective on September 30, 2019. See now, Texas Health and Safety Code, §437.025, effective September 1, 2019, allowing dogs to be present in food establishments under certain conditions.”

SECTION 3. This ordinance will take effect after its passage, approval and adoption on second reading.

PASSED AND APPROVED on first reading on September 17, 2019

PASSED, APPROVED AND ADOPTED on second reading on September 30, 2019.

Jane Hughson
Mayor

Attest:

Approved:

Jamie Lee Case
City Clerk

Michael J. Cosentino
City Attorney