

## **Proposed amendment to the Code of Ordinances, Chapter 6, Article VIII Environmental Health**

### **Allowing dogs on restaurant patios.**

The State of Texas establishes restaurant requirements through the Texas Food Establishment Regulations (TFER). TFER allows the City to be the enforcement authority for these regulations, and the City implements this by adopting the TFER regulations, with local amendments, through the Environmental Health section of the Code of Ordinances. Currently TFER (State requirements) does not allow dogs or animals to be on the premises of food establishments. If the City of Allen wants to allow restaurants to have dogs on patios, then a local amendment must be adopted.

Some existing restaurants, and a proposed restaurant, have expressed interest in allowing dogs on patios. The intent of this ordinance amendment is to provide an option for restaurants that want to allow dogs on patios. The ordinance amendment **does not** automatically allow all restaurants to have dogs. It requires restaurants that want to have dogs to apply for a special exception, and meet specific sanitation and operational requirements. These requirements are necessary to protect the public from the potential hazards that can result from animals being in the same environment as food preparation, serving and consumption. These requirements will be enforced by the City's Environmental Health staff through permitting and regular health inspections.

Several surrounding cities have adopted similar ordinances to allow dogs on patios including Plano, McKinney, Garland, Carrollton, Frisco, Prosper, Rowlett, The Colony, and others. It is anticipated that a handful of restaurants will choose to allow dogs, while many restaurants will continue to prohibit dogs.

This amendment to the Environmental Health ordinance also includes some clarifications to restaurant requirements for food handlers, locating of grease trap interceptors, and requirements for a new CO. These changes are also shown in red below.

### **Proposed Ordinance – Redline Version**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE CODE OF ORDINANCES CHAPTER 6 “HEALTH AND ENVIRONMENT,” ARTICLE VIII, “ENVIRONMENTAL HEALTH” BY AMENDING VARIOUS SUBSECTIONS OF SECTIONS 6-235 “AMENDMENTS TO THE TEXAS FOOD ESTABLISHMENT RULES” ADOPTING LOCAL AMENDMENTS TO THE TEXAS FOOD ESTABLISHMENT RULES; AND AMENDING SECTION 6-242 “PERMITS AND INSPECTIONS” BY ADDING SUBSECTION (e) RELATING TO BRINGING NON-COMPLIANT FACILITIES OR EQUIPMENT INTO COMPLIANCE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE OF \$2000 PER VIOLATION; AND PROVIDING FOR AN EFFECTIVE DATE**

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:**

**SECTION 1.** Chapter 6 “Health and Environment,” Article VIII “Environmental Health” of the Code of Ordinances of the City of Allen, Texas, is amended by amending Section 6-235 “Amendments to the

Texas Food Establishment Rules” as follows:

- A. Subsection (a) is amended by amending the definition of “Mobile Food Establishment” to read as follows: . . .

*Mobile Food Establishment.* A self-propelled vehicle-mounted food establishment designed to be readily moveable that is equipped with NSF approved food preparation equipment. This includes vehicles in which food is prepared on site. Said vehicles must meet regulations applicable to fixed food establishments.

- B. Subsection (b) is amended to read as follows:

- (b) Subchapter B. Section 228.33 Certified Food Protection Manager and Food Handler Requirements of the Texas Food Establishment Rules is amended to replace (a) and (d) and to read as follows:

- (a) There shall be a certified food manager on duty at all times at each permitted food establishment. Certification must be obtained by passing an examination approved by the state department of state health services and the regulatory authority.

(d) Except in a temporary food establishment, all food employees, including every person who comes in contact with the handling of the food, utensils, food service equipment and food contact surfaces, shall successfully complete an accredited food handler training course, within 30 days of employment.

- C. Subsection (s) is amended to read as follows:

- (s) Subchapter E. Section 228.150 Sewage Retention, Drainage, and Delivery, (d) Grease Trap of the Texas Food Establishment Rules is amended to read as follows:

- (d) Grease trap. If used, a grease trap shall be located to be easily accessible for cleaning, operation, and maintenance. Grease traps shall be located outside the food preparation and storage area unless otherwise approved by the regulatory authority. Interceptors are to be located outside the building and must not be in fire lanes, so that they are readily and easily accessible for cleaning and inspection.

- D. Subsection (t) is amended to read as follows:

- (t) Subchapter F, Section 228.173 Floors, Walls, and Ceilings of the Texas Food Establishment Rules is amended by replacing subsections (c), (f)(2) and (f)(3) and adding subsection (f)(4) to read as follows:

- (c) Floor construction. Floors and floor coverings of all food preparation, food service, food storage, and utensil-washing areas, and the floors of all walk-in refrigerating units, dressing rooms, locker rooms, toilet rooms and vestibules shall be light in color and

constructed of smooth durable material such as terrazzo, ceramic or quarry tile, epoxy, or the equivalent as approved by the regulatory authority and shall be maintained in good repair. A coved base tile must also be used in these areas. Sealed concrete and VCT (vinyl composite tile) are not acceptable as a floor surface for areas mentioned above. The use of cardboard, sawdust, wood shavings, peanut hulls, or similar materials as a floor covering is prohibited. Nothing in this section shall prohibit the use of anti-slip floor covering in areas where necessary for safety reasons.

- (1) Floor junctures. In all new or extensively remodeled establishments utilizing ~~stainless steel~~, terrazzo, ceramic or quarry tile or similar materials, and where water flush cleaning methods are used, the junctures between walls and floors must be of the same material and coved.
- (2) Floor drains. Properly installed, trapped floor drains shall be provided in floors that are water flushed for cleaning or that receive discharges of water or other fluid waste from equipment, or in areas where pressure spray methods for cleaning equipment are used. Properly trapped floor drains are required in all restrooms unless deemed not necessary by the regulatory authority. Such floor drains shall be constructed of stainless steel, terrazzo, ceramic or quarry tile or similar material and shall be graded to drain.
- (3) Sealed concrete in walk-in freezer units. Sealed concrete may be used in walk-in freezer units maintaining a temperature of zero (0) degrees Fahrenheit or below.

(f) Walls and Ceilings.

- (2) Except in areas used only for dry storage, concrete, porous blocks, or bricks used for indoor wall construction shall be finished and sealed to provide a smooth, nonabsorbent, easily cleanable surface.
  - (A) Walls. The walls, including non-supporting partitions and wall coverings of walk-in refrigerating units, food preparation areas, dry storage areas, food storage areas, equipment washing and utensil washing areas, toilet rooms and vestibules shall be light-colored, smooth, nonabsorbent and easily cleanable, such as FRP (fiberglass reinforced paneling), stainless steel, ceramic, quarry or terrazzo tile, or the equivalent approved by the regulatory authority. Walls located adjacent to cooking equipment that utilizes high heat require stainless steel sheeting or equivalent as approved by the regulatory authority.
  - (B) Ceilings. The ceilings of walk-in refrigerating units, food preparation areas, dry storage areas, food storage areas, equipment washing and utensil washing areas, toilet rooms and vestibules shall be light colored, smooth, nonabsorbent and easily cleanable, such as vinyl coated ceiling tiles. Alternate materials will be subject to regulatory approval.
  - (C) Maintenance. Walls and ceilings, including doors, windows, skylights, and similar closures, shall be clean and maintained in good repair.
- (3) Walls including non-supporting partitions, wall covering and ceilings of the walk-in refrigeration units, food preparation areas, equipment washing and utensil washing areas, toilet rooms and vestibules shall be light in color.
- (4) The walls of toilet rooms shall be constructed of a smooth, durable, and easily cleanable surface such as FRP (fiberglass reinforced paneling), or ceramic, quarry, or terrazzo tile, or the equivalent as approved by the regulatory authority, and must be installed to a height of at least four (4) feet above the floor.

E. Amending Subsection (y) to read as follows:

- (y) Subchapter F. Section 228.186 Premises, Buildings, Systems, Rooms, Fixtures, Equipment, Devices, and Materials (o) Prohibiting Animals of the Texas Food Establishment Rules is amended to by replacing paragraph (1), amending paragraph (2) and adding paragraph (4) to read as follows:

(o) Prohibiting animals

- (1) Except as specified in paragraphs (2), (3), and (4) of this subsection, live animals may not be allowed on the premises of a food establishment.
- (2) Live animals may be allowed in the following situations if the contamination of food, clean equipment, utensils, linens, and unwrapped single-service and single-use articles cannot result:
  - (A) Edible fish or decorative fish in aquariums, shellfish or Crustacea on ice or under refrigeration, and shellfish and Crustacea in display tank systems;
    - (i) Live fish tanks are subject to removal by the regulatory authority if not maintained in clean sanitizing condition.

(4) A request may be submitted for a special exception to allow dogs on outdoor patios at permitted food establishments. The request shall be part of the application for the Health Permit, as required by this article, and shall comply with all conditions or standards established by the regulatory authority.

(i) A special exception granted under this section is nontransferable. The special exception shall be renewed every year with renewal of the Health Permit.

(ii) The regulatory authority may deny or revoke a special exception if:

a. The food establishment does not hold a valid permit;

b. The application contains false information or statements;

c. The regulatory authority determines that a health hazard or nuisance will result or has resulted from the special exception; or

d. The food establishment is in violation of this ordinance, any term or condition as established by the regulatory authority.

(iii) If the regulatory authority grants a special exception to Subchapter F, § 228.186 (o) (2) and allows dogs to be present in an outdoor patio area of a food establishment, then the food establishment shall

comply with the conditions and standards set forth in this paragraph (4) in addition to any conditions and standards established by the regulatory authority. When granting the special exception, or upon inspection of the premises, the regulatory authority may impose additional requirements necessary to safeguard public health.

(iv) Facility requirements:

- a. A sign must be posted at the front entrance of the food establishment so that it is easily visible to the public stating, “DOG FRIENDLY PATIO. DOG ACCESS ONLY THROUGH OUTDOOR PATIO” in letters not less than four (4) inches high.
- 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 food establishment.
- c. Doors equipped with self-closing devices must be provided at all entrances to the outdoor patio from the interior of the food establishment and must be kept closed.
- d. All table and chair surfaces shall be made of a non-porous, easily cleanable material and must be cleaned and sanitized after every customer use.
- e. Floors shall be constructed with smooth, non-porous, easily cleanable, non-absorbent material. Wood and concrete floors must be properly sealed and approved by the local regulatory authority.
- f. A sign, card or other effective means of notification shall be displayed to notify patrons seated on the patio that they must wash their hands before eating.

(v) Operating requirements:

- a. No dog may be present inside the food establishment;
- b. No dog may be allowed within seven (7) feet of any entrance to the interior of the food

establishment except when necessary to enter or exit the patio.

- c. No food preparation, including mixing drinks, and no food storage, including storage of ice, may be performed in the outdoor patio area, except drink glasses may be filled on the patio from a pitcher.
- d. While on duty, any service, wait staff or other food handlers at the establishment must not pet or have contact with any dog.
- e. A dog is not allowed on a seat, table, countertop, or similar surface in the outdoor patio.
- f. A dog must be kept on a non-retractable leash, or in a secure bag or container specifically designed to carry and provide continuous restraint of the dog while providing adequate ventilation. The dog must remain under continuous physical control of the customer while in the outdoor patio area in accordance with Allen Code of Ordinances Sec. 3-3(b). relating to tethering of dogs. The dog must be wearing a collar or harness to which is attached a current rabies vaccination tag.

(vi) Health and sanitation requirements:

- a. The outdoor patio must be cleaned with approved product(s) at the start of each shift during which food or beverage will be served, including breakfast, lunch, dinner or late hours.
- b. The outdoor patio must be continuously maintained free of visible dog hair, dog dander, and other dog related waste or debris.
- c. Spilled drinks and food shall be removed from the floor immediately after the spill.
- d. A dog's bodily waste must be cleaned up immediately after each occurrence and thoroughly sanitized per Allen Code of Ordinances Sec. 3-13 (b). Disposal of all dog waste must occur outside of the food establishment's premises in an appropriate

waste receptacle. Equipment used to clean the outdoor patio must be kept/stored outside of the food establishment.

e. A dog is not allowed to have contact with any dish or any utensil used for food service or preparation at the establishment or contact with any other dish or utensil that may be transported into the food establishment.

f. Feeding a dog (including but, not limited to, feeding any biscuits, dog kibble, and edible treats) while in the outdoor patio area is prohibited.

g. If any incident occurs in which one or more dogs are involved in any type of altercation where the dogs come into physical contact with a person at the food establishment resulting in an injury to the person, the food establishment shall prepare a written report, including information about injured person's name, contact information, and description of the incident, a copy of which report shall be made available to the City of Allen's Animal Control Division and retained in the food establishment's files.

(vii) A Service Dog, as defined by the Americans with Disabilities Act, is exempt from these requirements.

**SECTION 2.** Chapter 6 “Health and Environment,” Article VIII “Environmental Health” of the Code of Ordinances of the City of Allen, Texas, is amended by adding subsection (e) to Section 6-242 “Permits and Inspections” to read as follows:

(e) Physical facilities or equipment of a food establishment not in compliance with the applicable ordinances and regulations of this chapter shall be brought into compliance with the provisions of this chapter when:

(1) a new permit is issued for a food service establishment resulting from a change in ownership or change in type of operation; or

(2) when it is determined by the regulatory authority that continued operation or use of the non-compliant facility or equipment poses an eminent risk to public health or safety.

**SECTION 3.** Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance or of the Code of Ordinances, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Code of Ordinances, as amended hereby, which shall remain in full force and effect.



**SECTION 4.** An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

**SECTION 5.** Any person, firm or corporation violating any of the provisions or terms of this ordinance or of the Code of Ordinances as amended hereby, shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Allen, as previously amended, and upon conviction shall be punished by a fine not to exceed \$2000.00 for each offense.

**SECTION 6.** This ordinance shall take effect immediately from and after its passage and publication of the caption as required by law.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 28<sup>TH</sup> DAY OF AUGUST 2018.**

**APPROVED:**

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**Stephen Terrell, MAYOR**

**APPROVED AS TO FORM:**

**ATTEST:**

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**Peter G. Smith, CITY ATTORNEY**  
(kbl:8/15/18:101868)

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**Shelley B. George, TRMC, CITY SECRETARY**

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