

City of Safety Harbor Application for Dog Dining Permit

Date Received:	
File Number:	
Staff Reviewer:	

Pursuant to Chapter 509.233, Florida Statutes, any public food service establishment allowing entrance of patrons' dogs to an outside dining area must submit a permit application to the local governing authority.

1. PROPERTY OWNER:

Name:		
Address:		
Telephone:	Fax:	E-Mail:

2. APPLICANT (if same as property owner, write "Same"):

Name:		
Address:		
Telephone:	Fax:	E-Mail:

3. AGENT FOR APPLICANT:

Name:		
Address:		
Telephone:	Fax:	E-Mail:

4. SITE INFORMATION:

Business Name:	
Address:	DBPR License #:
Location:	

The undersigned applicant hereby agrees to operate the canine dining area described in this application in accordance with the requirements of Chapter 509.233, Florida Statutes and City of Safety Harbor Ordinance No. 2011-05 (attached). The undersigned certifies the information contained in this application is true and correct. The undersigned understands this application is not transferable. The undersigned agrees to indemnify the City from liability resulting from application of this ordinance in accordance with the indemnification requirement of Article IV, Section 67.03 of the City's Comprehensive Zoning and Land Development Code outlined below.

Applicant Signature: _____ **Date:** _____

67.03 Indemnification Requirement

- (A) The public food service establishment, its officials, boards, members, agents and employees, shall indemnify, defend with counsel reasonably acceptable to the city, and hold the city, its officials, boards, members, agents and employees harmless of and from any and all claims for personal injury, death, or property damage, any other losses, damages, charges or costs, including reasonable attorneys fees, witness fees, court costs, and the reasonable value of any services rendered by any officer or employee of the city, and any orders, judgments, or decrees which may be entered, including, but not limited to any causes of action in equity, arising out of any permit granted the public food service establishment or the regulation and enforcement of the provisions of this section hereunder, regardless of whether the act or omission complained of is a authorized, allowed or prohibited by this section, except to the extent any losses arise from the negligence or willful omissions of the city, its officials, boards, members, agents and employees.
- (B) Notwithstanding anything contained herein to the contrary, this indemnification provision shall not be construed as a waiver of any immunity from or limitation of liability to which the city is entitled to pursuant to Florida Statutes 768.28. Furthermore, this provision is not intended to nor shall be interpreted as limiting or in any way affecting any defense the city may have under Florida Statutes 768.28 and is not intended to and shall not be interpreted to alter the extent of the city's waiver of sovereign immunity under Florida Statutes 768.28. Nothing herein is intended to serve as a waiver of sovereign immunity by either party, and nothing herein shall be construed as consent by either party to be sued by third parties in any manner arising out of this Ordinance. This indemnification provision shall survive the expiration or termination of Florida Statutes 509.23, however or whenever expired or terminated.

6. REQUIRED INFORMATION:

- Description of outdoor area to be designated available for patrons' dogs
- Diagram of designated area drawn to scale
- Diagram and Description must include:
 - Dimensions of designated area
 - Description of number of tables
 - Placement of tables, chairs and restaurant equipment (if any)
 - Entryways and exits to designated outdoor area
 - Boundaries of designated area and other outdoor areas not available to dogs
 - Any fences or other barriers
 - Surrounding property lines and public rights-of-way (including sidewalks and common pathways)
- Description of days of the week and hours of operation that patrons' dogs will be permitted in the designated outdoor area.
- Dimensioned sketch of proposed signage for designated area

NOTORIZED AFFIDAVIT

I and/or we, the undersigned certify ownership of the property within this application, certify that said ownership has been fully divulged, whether such ownership be contingent or absolute, and that the names of all parties to any existing contract for sale or any options to purchase are filed with this application.

I/we, certify that _____ and _____ is/are duly designated as the agent(s) for the owner, that the agent(s) is/are authorized to provide subject matter on the application contained herein, whether verbal or written, and appear at any public hearing(s) involving this petition. Further, it is understood that this application must be complete and accurate and the fee paid prior to processing.

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ by _____ and _____ who is/are personally known to me or who has/have produced satisfactory photo identification.

Signature of Title Holder(s)

Printed Name(s) of Title Holder(s)

Signature of Notary

Name of Notary [typed, printed or stamped]

**NOTARY
STAMP**

ORDINANCE NO. 2011-05

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF SAFETY HARBOR, FLORIDA, AMENDING ARTICLE IV OF THE CITY OF SAFETY HARBOR COMPREHENSIVE ZONING AND LAND DEVELOPMENT CODE TO PERMIT AN EXEMPTION TO THE FOOD AND DRUG ADMINISTRATION FOOD CODE TO ALLOW PATRONS' DOGS TO BE IN DESIGNATED OUTDOOR AREAS OF CERTAIN FOOD ESTABLISHMENTS THAT OBTAIN A PERMIT FROM THE CITY TO DO SO; PROVIDING FOR PUBLICATION IN ACCORDANCE WITH THE REQUIREMENTS OF LAW; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Legislature previously authorized the governing body of a local government to establish a local exemption permitting procedure to certain provisions of the Food and Drug Administration Food Code in order to allow patrons' dogs within certain designated outdoor portions of public food service establishments as part of a three year pilot program (§509.233, Fla. Stat.); and

WHEREAS, the City Commission passed and adopted Article IV, Section 67 of the Land Development Code on June 16, 2008 establishing a local exemption permitting procedure in accordance with §509.233, Fla. Stat.; and

WHEREAS, Article IV, Section 67 sunset on July 1, 2009; and

WHEREAS, §509.233, Fla. Stat., has been permanently reenacted by the Legislature and is no longer a pilot program.

NOW THEREFORE, BE IT ORDAINED by the City Commission of the City of Safety Harbor, Florida, in session duly and regularly assembled that:

SECTION 1. Article IV of the City of Safety Harbor Comprehensive Land Development Code is hereby amended by adding Sections 67.00 through 67.06, which shall read:

67.00 **PATRONS' DOGS IN PUBLIC FOOD SERVICE ESTABLISHMENTS**

67.01 **Purpose**

- (A) The Dixie Cup Clary Local Control Act, Florida Statute 509.233, grants the City the authority to provide exemptions from the FDA Food Code, as adopted by the Department of Business and Professional Regulation, Division of Hotels and Restaurants ("Division") in Chapter 61C-1.001, Florida Administrative Code. The purpose of this section is to allow dogs in public food service establishments in a manner consistent with the program approved by state statute. The procedure adopted pursuant to this section provides an exemption for those public food

service establishments which have applied for and received a permit to those sections of the Food and Drug Administration Food Code that prohibit live animals in public food service establishments.

- (B) No dog shall be in a public food service establishment unless allowed by state law and the public food service establishment has received and maintains an unexpired and valid permit pursuant to this section allowing dogs in designated outdoor areas of the establishment.
- (C) As used in this section "public food service establishments" shall mean eating and retail food establishments as defined by the Comprehensive Zoning and Land Development Code of the City of Safety Harbor. "Employee" or "employees" shall include, but is not limited to, the owner or owners of the public food service establishment.

67.02 Application Requirements

- (A) Public food service establishments must apply for and receive a permit from the City before patrons' dogs are allowed on the premises. The City shall establish a reasonable fee to cover the cost of processing the initial application and renewals. The application for a permit shall require such information from the applicant as is deemed reasonably necessary to enforce the provisions of this section, but shall require, at a minimum, the following information:
 - (1) Name, location, mailing address, and division issued license number of the public food service establishment.
 - (2) Name, mailing address and telephone contact information of the permit applicant.
 - (3) A diagram and description of the outdoor area which is requested 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 the other outdoor dining areas 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 as is deemed necessary by the City.
 - (4) The diagram shall be accurate and to scale but need not be prepared by a licensed design professional. A copy of the approved diagram shall be attached to the permit.
 - (5) A description of the days of the week and hours of operation that patrons' dogs will be permitted in the designated outdoor area.

67.03

Indemnification Requirement

- (A) The public food service establishment, its officials, boards, members, agents and employees, shall indemnify, defend with counsel reasonably acceptable to the city, and hold the city, its officials, boards, members, agents and employees harmless of and from any and all claims for personal injury, death, or property damage, any other losses, damages, charges or costs, including reasonable attorneys' fees, witness fees, court costs, and the reasonable value of any services rendered by any officer or employee of the city, and any orders, judgments, or decrees which may be entered, including, but not limited to any causes of action in equity, arising out of any permit granted the public food service establishment or the regulation and enforcement of the provisions of this section hereunder, regardless of whether the act or omission complained of is authorized, allowed or prohibited by this section, except to the extent any losses arise from the negligence or willful omissions of the city, its officials, boards, members, agents and employees.

- (B) Notwithstanding anything contained herein to the contrary, this indemnification provision shall not be construed as a waiver of any immunity from or limitation of liability to which the city is entitled to pursuant to Florida Statutes 768.28. Furthermore, this provision is not intended to nor shall be interpreted as limiting or in any way affecting any defense the city may have under Florida Statutes 768.28 and is not intended to and shall not be interpreted to alter the extent of the city's waiver of sovereign immunity under Florida Statutes 768.28. Nothing herein is intended to serve as a waiver of sovereign immunity by either party, and nothing herein shall be construed as consent by either party to be sued by third parties in any manner arising out of this Ordinance. This indemnification provision shall survive the expiration or termination of Florida Statutes 509.233, however or whenever expired or terminated.

67.04

Regulations

- (A) Public food service establishments that receive a permit for a designated outdoor area pursuant to this section shall require that:
 - (1) Employees shall wash their hands promptly after touching petting or otherwise handling any dog(s) and shall wash their hands before entering other parts of the public food service establishment from the designated outdoor area.
 - (2) Employees are prohibited from touching petting or otherwise handling any dog while serving or carrying food or beverages or while handling or carrying tableware.
 - (3) Patrons in a designated outdoor area shall be advised by appropriate signage at conspicuous locations, that they should wash their hands before

eating. Waterless hand sanitizer shall be provided at all tables in the designated outdoor area.

- (4) Patrons shall keep their dogs on a leash at all times and shall keep their dogs under direct control.
- (5) Employees and patrons shall not allow dogs to come into contact with serving dishes, utensils, tableware, linens, paper products or any other items involved with food service operations.
- (6) Employees and patrons shall not allow any part of a dog to be on chairs, tables, or other furnishings. Dogs must remain on the floor/ground level and shall not be permitted in the lap of the patron.
- (7) Employees shall clean and sanitize all table and chair surfaces with an approved product between seating of patrons.
- (8) Employees shall remove all dropped food and spilled drink from the floor or ground as soon as possible but in no event less frequently than between seating of patrons at the nearest table.
- (9) Employees and patrons shall remove all dog waste immediately and the floor or ground shall be immediately cleaned and sanitized with an approved product. Employees shall keep a kit with the appropriate materials for this purpose near the designated outdoor area.
- (10) Employees and patrons shall not permit dogs to be in, or to travel through, indoor or non-designated outdoor portions of the public food service establishment.
- (11) A sign or signs notifying the public that the designated outdoor area is available for the use of patrons and patrons' dogs shall be posted in a conspicuous manner that places the public on notice. The mandatory sign shall be not less than eight and one-half inches in width and eleven inches in height (8 ½ inches by 11 inches) and printed in easily legible type face of not less than twenty (20) point font size.
- (12) A sign or signs informing patrons of these laws shall be posted on premises in a conspicuous manner and place as determined by the City. The mandatory sign shall be not less than eight and one-half inches in width and eleven inches in height (8 ½ inches by 11 inches) and printed in easily legible type face of not less than twenty (20) point font size.
- (13) A sign or signs informing employees of these laws shall be posted on the premises in a conspicuous manner and place as determined by the City. The mandatory sign shall be not less than eight and one-half inches in

width and eleven inches in height (8 ½ inches by 11 inches) and printed in easily legible type face of not less than twenty (20) point font size.

- (14) Ingress and egress to the designated outdoor area shall not require entrance into or passage through any indoor area or non-designated outdoor portions of the public food service establishment.
- (15) The public food service establishment and designated outdoor area shall comply with all permit conditions and the approved diagram.
- (16) Employees and patrons shall not allow any dog to be in the designated outdoor areas of the public food service establishment if the public food service establishment is in violation of any of the requirements of this section or if they do not possess a valid permit.
- (17) Permits shall be conspicuously displayed in the designated outdoor area.
- (18) It shall be unlawful to fail to comply with any of the requirements of this section. Each instance of a dog on the premises of a public food service establishment without a permit is a separate violation. Each violation of any of the requirements of this section is considered a separate violation.
- (19) All dogs shall wear a current license tag or rabies tag and the patron shall have a current license certificate or rabies certificate immediately available upon request.
- (20) Employees and patrons shall not permit patrons' dogs to be in food preparation areas.

67.05 Expiration and Revocation

- (A) A permit issued pursuant to this section shall expire automatically upon the sale of the public food service establishment and cannot be transferred to a subsequent owner. The subsequent owner may apply for a permit pursuant to this section if the subsequent owner wishes to continue to allow patrons' dogs in a designated outdoor area of the public food service establishment.
- (B) If the City's authority to permit such exemption as set forth in Section 509.233, Florida Statutes, is repealed at any time, all permits shall expire on the effective date of such repeal.
- (C) A permit may be revoked by the City if, after notice and reasonable time in which the grounds for revocation may be corrected, the public food service establishment fails to comply with any condition of approval, fails to comply with the approved diagram, fails to maintain any required state or local license, or is

found to be in violation of any provision of this section. If the ground for revocation is a failure to maintain any required state or local license, the revocation may take effect immediately upon giving notice of revocation to the permit holder.

- (D) If a public food service establishment's permit is revoked, no new permit may be approved for the establishment until the expiration of 90 days following the date of revocation, providing that all issues continued within the revocation have been satisfied. This includes any outstanding fines associated with enforcement of this ordinance.

67.06 Complaints and Reporting

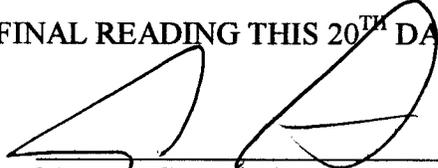
- (A) Complaints may be made in writing to the Community Development Department which shall accept, document, and respond to all complaints and shall timely report to the Division all complaints and the response to such complaints.
- (B) The City shall provide the Division with a copy of all approved applications and permits issued.
- (C) All applications, permits, and other related materials shall contain the Division issued license number for the public food service establishment.
- (D) The patron or the designated person in charge of the public food service establishment, or both, may be issued civil citations for each violation of this ordinance.

SECTION 2. The City Clerk shall cause this Ordinance to be published in accordance with the requirements of law.

SECTION 3. This Ordinance shall become effective upon final passage and adoption.

PASSED ON FIRST READING, THIS 6TH DAY OF JUNE, 2011.

PASSED AND ADOPTED ON SECOND AND FINAL READING THIS 20TH DAY OF JUNE, 2011.



Mayor - Commissioner



Vice Mayor - Commissioner

ATTEST:

Cathy Benson
City Clerk

Mary Lynnda Williams
Commissioner

Nancy J. Benson
Commissioner

John Clark
Commissioner