

OFFICE OF THE COUNTY ATTORNEY



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MEMORANDUM

Date: March 12, 2018

To: Board of County Commissioners

Through: Mitchell O. Palmer, County Attorney *MOP 3-12-18*

From: Anne Morris, Assistant County Attorney *Amur*

RE: Ordinance Regarding Dogs in Public Food Establishments; CAO Matter No. 2018-0126.

This memorandum is in response to the above referenced Request for Legal Services in which you asked this Office to review Ordinance 07-49, Manatee County's "Dog Dining" Ordinance, codified in Article II, Chapter 2-4, of the County's Code of Ordinances (Code).

Florida Statute § 509.233 authorizes local governments to adopt an ordinance allowing patrons to bring their dogs to public food establishments. Pursuant to this authority, Manatee County adopted Ordinance 07-49. On July 1, 2009, Ordinance 07-49 sunsetted and all permits issued thereunder are expired. At the March 6, 2018 Board hearing, the Board expressed its desire to have this Ordinance re-implemented.

A local government that opts to adopt such an ordinance is required to "...provide for codification within the **land development code** of [the] participating local government." Fla. Stat. § 509.233(2)(b) (2017) (*emphasis supplied*). Accordingly, Ordinance 18-22 (formerly Ordinance 07-49) has been drafted for consideration by the Planning Commission and Board for codification in the Land Development Code (LDC). At this time, Ordinance 18-22 is undergoing review by staff in the Building and Development Services Department.

In the meantime, however, and since the original ordinance (Ordinance 07-49) was not incorporated into the LDC, it is necessary to repeal the ordinance and remove it from the Code of Laws. Attached, therefore, is proposed Ordinance 18-24, providing for the removal of Sections 2-4-32 to 2-4-37 from the Code of Laws.

* Board Certified in Construction Law

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The County Attorney's Office will handle advertising and scheduling of Ordinance 18-24 for a public hearing. At such time as Building and Development Services staff has completed its review of the new Ordinance 18-22, it too will be advertised and scheduled for appropriate hearings before the Planning Commission and the Board of County Commissioners.

Enclosures

Copies to: Ed Hunzeker, County Administrator
Dan Schlandt, Deputy County Administrator
John Barnott, Director, Building and Development Services Department
Jeff Bowman, Code Enforcement Chief, Building and Development Services Department

ORDINANCE NO. 18-24

AN ORDINANCE OF MANATEE COUNTY, FLORIDA REPEALING ORDINANCE 07-49, CODIFIED AS CHAPTER 2-4 OF ARTICLE II, SECTIONS 2-4-32 TO 2-4-37, REGARDING DOGS IN PUBLIC FOOD ESTABLISHMENTS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the United States Food and Drug Administration Food Code, adopted by the State of Florida Division of Hotels and Restaurants of the Department of Business and Professional Regulation, contains certain provisions that prohibit dogs from public food service establishments; and

WHEREAS, pursuant to Florida Statute § 509.233, the governing body of a local government may establish, by ordinance, a local exemption procedure to these provisions of the United States Food and Drug Administration Food Code in order to allow patrons to bring their dogs to certain designated outdoor areas of public food service establishments; and

WHEREAS, any ordinance adopted pursuant to Florida Statute § 509.233 is required to be codified within the land development code of the participating local government; and

WHEREAS, Ordinance 07-49 allowing dogs in public food establishments in Manatee County was codified in the County's Code of Ordinances (Code), and not the County's Land Development Code, as required by Florida Statute § 509.233(2)(b); and

WHEREAS, the Board finds that Ordinance 07-49 must be repealed from the Code in order to comply with the requirements of Florida Statute § 509.233.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:

Section 1. Article II, Chapter 2-4, Sections 2-4-32 to 2-4-37, of the Code is hereby repealed and shall be removed from the Code of Laws.

Section 2. The repeal of this ordinance shall take effect immediately upon filing with the Department of State.

DULY ADOPTED, with a quorum present and voting, this _____ day of _____, 2018.

BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA

By: _____
Chairperson

ATTEST: ANGELINA COLONNESO
CLERK OF THE CIRCUIT COURT AND COMPTROLLER

By: _____
Deputy Clerk