ORDINANCE NO. 18-22

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FINDINGS; AMENDING THE LAND DEVELOPMENT CODE TO ESTABLISH A LOCAL EXEMPTION PROCEDURE FROM STATE LAW TO ALLOW DOGS IN OUTDOOR AREAS OF PUBLIC FOOD SERVICE ESTABLISHMENTS DURING OPERATING HOURS; AMENDING CHAPTER 2, SECTION 200, DEFINITIONS; AMENDING CHAPTER 4, SECTION 401.2, SCHEDULE OF USES, TABLE 4-1 USES IN AGRICULTURE AND RESIDENTIAL DISTRICTS, TABLE 4-2 USES IN NON-RESIDENTIAL DISTRICTS, AND SECTION 402.5, SCHEDULE OF USES FOR PD DISTRICTS TABLE 4-9 SCHEDULE OF USES FOR PD DISTRICTS; AMENDING CHAPTER 5, STANDARDS FOR ACCESSORY AND SPECIFIC USES AND STRUCTURES, SECTION 531.48.D, DOG DINING IN CERTAIN OUTDOOR PORTIONS OF PUBLIC FOOD SERVICE ESTABLISHMENTS; PROVIDING FOR OTHER AMENDMENTS AS MAY BE NECESSARY FOR INTERNAL CONSISTENCY; PROVIDING FOR CODIFICATION; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; AND PROVIDING 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 Section 509.233, Florida Statutes, the governing body of a local government may establish, by ordinance, a local exemption procedure to certain 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 Section 509.233, Florida Statutes, is required to be codified within the land development code of the participating local government; and

WHEREAS, many business owners and citizens of Manatee County (“County”) have expressed a desire to be able to dine outdoors at local public food service establishments while accompanied by their dogs; and

WHEREAS, the Board of County Commissioners (“Board”) wishes to implement the exemption procedure provided for in Section 509.233, Florida Statutes within the boundaries of Manatee County; and

WHEREAS, in order to protect the health, safety and general welfare of the public, a public food service establishment desirous of allowing its patrons to bring their dogs onto its premises will be required to obtain a permit from the County; and

WHEREAS, the Manatee County Planning Commission has been duly designated in Section 301 of the Land Development Code as the Local Planning Agency of the County; and

WHEREAS, Section 163.3174(4)(c), Florida Statues, provides that the Local Planning Agency shall review proposed land development regulations and make recommendations to the governing body as to consistency of the proposed land development regulations with the adopted Comprehensive Plan; and

WHEREAS, Section 301.A.C. of the Land Development Code authorizes the Planning Commission to hold public hearings and make recommendations as to proposed amendments to the text of the Land Development Code; and
WHEREAS, the Planning Commission, acting in its capacity as the County’s Local Planning Agency, has been presented with proposed LDCT 18-04/Ordinance 18-22 incorporated by reference into this Ordinance; and

WHEREAS, the Planning Commission, acting in its capacity as the Local Planning Agency, held a duly noticed and advertised public hearing on April 12, 2018 in accordance with Section 341.2 of the Land Development Code and to receive public comment; and

WHEREAS, the Planning Commission, acting in its capacity as the Local Planning Agency, at the April 12, 2018 public hearing, found LDCT 18-04/Ordinance 18-22 to be consistent with the Manatee County Comprehensive Plan (“the Comprehensive Plan”) and recommended that the Board of County Commissioners adopt the LDCT 18-04/Ordinance 18-22 into the Land Development Code of the County; and

WHEREAS, the Board held two (2) adoptive public hearings on May 3, 2018, and June 7, 2018, to receive public comments and consider the recommendation of the Planning Commission as to the proposed LDCT 18-04/Ordinance 18-22; and

WHEREAS, the Board has found and determined that the adoption of the proposed LDCT 18-04/Ordinance 18-22 will foster and preserve the public health, safety and welfare and aid in the harmonious, orderly and progressive development of the County and thus will serve a valid public purpose.

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

Section 1. Purpose and Intent. This Ordinance is enacted to carry out the purpose and intent of, and exercise the authority set out in Section 509.233, Florida Statutes.

Section 2. Findings. The Board of County Commissioners relies upon the following findings in the adoption of this Ordinance:
A. The statements set forth in the above recitals of this Ordinance are true and correct.

B. The Planning Commission, acting in its capacity as the Local Planning Agency for the County, held a public hearing on April 12, 2018, to consider LDCT 18-04 and found the LDC Text Amendment to be consistent with the Comprehensive Plan, and recommended that the Board adopt the LDC Text Amendment into the Land Development Code of the County.

Section 3. Adoption of the Land Development Code Text Amendment. The Land Development Code Text Amendment attached to this Ordinance and incorporated herein as Exhibits A-1 through A-3 is hereby adopted as Amendments to the Land Development Code of the County. The Land Development Code Text Amendment shall consist of the following Chapters and Sections of the Land Development Code as set forth in the following three (3) Exhibits:

(a) Chapter 2, Definitions (Exhibit A-1);
(b) Chapter 4, Zoning (Exhibit A-2); and
(c) Chapter 5, Standards for Accessory, Specific Uses, Structures (Exhibit A-3).

Section 4. Codification. The publisher of the County’s Land Development Code, the Municipal Code Corporation, is directed to incorporate the Amendments in Section 3 of this Ordinance into the Manatee County Land Development Code.

Section 5. Applicability. The Amendments set forth in this Ordinance shall apply to all applications, decisions or controversies pending before the County upon the effective date hereof or filed or initiated thereafter.

Section 6. Severability. If any section, sentence, clause, or other provision of this Ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

Section 7. Effective Date. This Ordinance shall become effective as provided by law.

DULY ADOPTED, with a quorum present and voting, this 7th day of June 2018.
BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: ________________________________
    Priscilla Trace, Chairperson

ATTEST: ANGELINA COLONNESO
CLERK OF THE CIRCUIT COURT AND COMPTROLLER

By: ________________________________
    Deputy Clerk
Chapter 2 - DEFINITIONS

Section 200

Public Food Service Establishment(s) shall be defined as outlined in Florida Statute § 509.013.
ORDINANCE 18-22
EXHIBIT “A-2”

Chapter 4 – ZONING

Section 401.2, Schedule of Uses

Table 4-1: Uses in Agriculture and Residential Districts

<table>
<thead>
<tr>
<th>Land Use</th>
<th>See Sec #</th>
<th>CON</th>
<th>A</th>
<th>A-1</th>
<th>RSF</th>
<th>RSMH</th>
<th>RDD</th>
<th>RMF</th>
<th>VIL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Restaurant</td>
<td>531.48</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>AP</td>
</tr>
<tr>
<td>Dog Dining</td>
<td>531.48</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>AP</td>
</tr>
</tbody>
</table>

“X” = prohibited; “AP” = Administrative Permit (meeting LDC Section 531.48)

Table 4-2: Uses in Non-Residential Districts

<table>
<thead>
<tr>
<th>Land Use</th>
<th>See Sec #</th>
<th>PR</th>
<th>NC</th>
<th>GC</th>
<th>HC</th>
<th>RVP</th>
<th>LM</th>
<th>HM</th>
<th>EX</th>
<th>MP-1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Restaurant</td>
<td>531.48</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>X</td>
<td>P</td>
<td>X</td>
<td>X</td>
<td>P</td>
</tr>
<tr>
<td>Dog Dining</td>
<td>531.48</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>X</td>
<td>P</td>
<td>X</td>
<td>X</td>
<td>P</td>
</tr>
</tbody>
</table>

“X” = prohibited; “P” = permitted (meeting LDC Section 531.48)

Section 402.5, Schedule of Uses for PD Districts

Table 4-9: Schedule of Uses for PD Districts

<table>
<thead>
<tr>
<th>Land Use</th>
<th>See Sec #</th>
<th>PD R</th>
<th>PD O</th>
<th>PD C</th>
<th>PD RP</th>
<th>PD I</th>
<th>PD PI</th>
<th>PD W</th>
<th>PD MU</th>
<th>PD RV</th>
<th>PD MH</th>
<th>PD GC</th>
<th>PD A</th>
<th>PD EZ</th>
</tr>
</thead>
<tbody>
<tr>
<td>Restaurant</td>
<td>531.48</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
</tr>
<tr>
<td>Dog Dining</td>
<td>531.48</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
</tr>
</tbody>
</table>

“X” = prohibited; “P” = permitted (meeting LDC Section 531.48)
ORDINANCE 18-22
EXHIBIT “A-3”

Chapter 5 – STANDARDS FOR ACCESSORY, SPECIFIC USES, STRUCTURES – Part IV – Standards for Specific Uses – Section 531

531.48. Restaurants

D. Dog Dining in Certain Outdoor Portions of Public Food Service Establishments.

1. Permit Required, Permit Application Requirements.

   a. A public food service establishment must apply for an Administrative Review to determine the appropriate process to obtain a permit (i.e., Final Site Plan, Off-Street Parking Plan, Plot Plan, etc.) before patrons’ dogs are allowed on the premises. This Administrative Review of the application requirements will result in a permit being issued to the applicant, upon satisfaction of the criteria in this Section and a copy of the application and permit being provided to the State of Florida Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

   b. The application for a permit shall include, along with any other information deemed reasonably necessary for the enforcement of this section, the following information:

      (1) Name, location, mailing address and the State of Florida Division of Hotels and Restaurants of the Department of Business and Professional Regulation (“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 county.

(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.

(6) Written authorization to obtain the permit from the owner of the property on which the public food service establishment is located if the applicant is not the owner.

c. Each applicant for a permit shall submit a nonrefundable application fee in conjunction with the submission of the permit application.

2. Public food service establishments that receive a permit for a designated outdoor area pursuant to this section shall require that:

a. 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.

b. Employees are prohibited from touching, petting or otherwise handling any dog while serving or carrying food or beverages or while handling or carrying tableware.

c. 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.

d. Patrons shall keep their dogs on a leash at all times and shall keep their dogs under reasonable control.

e. 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.

f. 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.
g. Employees shall clean and sanitize all table and chair surfaces with an approved product between seating of patrons.

h. 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 the seating of patrons at the nearest table.

i. Employees and patrons shall remove all dog waste immediately and the floor or ground shall be immediately cleaned and sanitized with an approved product. A kit with the appropriate materials for this purpose shall be kept near the designated outdoor area.

j. Dogs shall not be permitted to travel though indoor or non-designated outdoor portions of the public food service establishment, and ingress and egress to the designated outdoor portions of the public food service establishment must not require entrance into or passage through any indoor area of the food establishment.

k. 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.

l. A sign or signs informing patrons of these laws shall be posted on premises in a conspicuous manner and place as determined by the county.

m. 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 county.

n. 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.

o. The public food service establishment and designated outdoor area shall comply with all permit conditions and the approved diagram.

p. 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.

q. Permits shall be conspicuously displayed in the designated outdoor area.
r. 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.

s. 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.

3. 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. A permit may be revoked by the county 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.

c. 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, to include any outstanding fines.

4. Complaints and Reporting

a. Complaints shall be made in writing to the county’s code enforcement who shall accept, document, and respond to all complaints and shall timely report to the Division all complaints and the county’s response to such complaints.
b. 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.