



**BOARD OF COUNTY COMMISSIONERS**

DATE: March 19, 2013

AGENDA ITEM NO. **20**

Consent Agenda ☐

Regular Agenda ☐

Public Hearing ☒

County Administrator's Signature *[Signature]* **6-25-13**

**Subject:**

Proposed Amendments to Chapter 138 of the Pinellas County Land Development Code Establishing the Dog Friendly Dining Program.

**Department:**

Strategic Planning & Initiatives

**Staff Member Responsible:**

Larry Arrington, Director

**Recommended Action:**

I RECOMMEND THE BOARD OF COUNTY COMMISSIONERS (BOARD) CONDUCT THE FIRST OF TWO PUBLIC HEARINGS TO RECEIVE PUBLIC COMMENT ON THE PROPOSED AMENDMENTS TO THE PINELLAS COUNTY LAND DEVELOPMENT CODE.

**Summary Explanation/Background:**

Recent changes to Florida law allow local governments to permit patrons' dogs in certain designated outdoor areas of state-licensed restaurants, cafes and other public food service establishments. The "Dixie Cup Clary Local Control Act", which created a three year pilot program, was permanently reenacted by the Legislature under Chapter 509, Fla. Statutes. In order to implement dog friendly dining, local governments must adopt an ordinance providing for local permitting of those restaurants wishing to participate, as well as application procedures, a complaint handling process, and specific regulations that must be followed. Local jurisdictions must share copies of applications, permits and complaint handling documentation with the Florida Division of Hotels and Restaurants.

The provisions of this proposed Ordinance will apply to unincorporated areas only. Nine municipalities within Pinellas County currently permit dog friendly dining based on the same statutory allowances cited above, all with programs established since 2009. Due to the nature of the Legislative requirements, the municipal ordinances are very similar to the one proposed for the unincorporated County. None of the municipalities have reported experiencing any particular issues or difficulties with their respective programs.

Regulations that permit holders will be required to follow include rules for employee interactions with dogs, rules regarding where dogs are allowed, rules for sanitation, and rules for proper signage. Dogs must be leashed at all times, are not allowed on furniture and are not allowed indoors or in undesigned outdoor locations. Violations are subject to permit revocation and code enforcement proceedings. Dog friendly dining permits will require annual renewal, will be non-transferrable and will not run with the land. A permit application fee will need to be established to cover the cost of staff review, permitting and site inspections. The implementation of the dog friendly dining program will therefore require a change to the Board Resolution establishing annual fees as well as the development of a specific permit application and procedure.

The Local Planning Agency (LPA) unanimously recommended approval of the proposed Ordinance during their February 14, 2013 public hearing. This is the first of two required public hearings by the Board. The second public hearing to adopt the Ordinance is scheduled for April 9, 2013, at which time a resolution to approve a permit application fee will be brought forward.

**Fiscal Impact/Cost/Revenue Summary:**

N/A

**Exhibits/Attachments Attached:**

Local Planning Agency Report and Recommendation  
Proposed Ordinance (strikethrough/underline version and clean version)

**LOCAL PLANNING AGENCY (LPA) RECOMMENDATION to the  
Board of County Commissioners**



**Regarding: Amendments to Chapter 138 of the Pinellas County Land  
Development Code Establishing the Dog Friendly Dining Program**

**LPA Recommendation:** The LPA finds that the proposed amendment is consistent with the Pinellas County Comprehensive Plan, and recommends Approval of the request. (The vote was 7-0, in favor)

**LDR Report No. 11-2-13**

***LPA Public Hearing Date: February 14, 2013***

**PLANNING STAFF RECOMMENDATION:** That the LPA recommend to the Board of County Commissioners that the proposed amendments to the Pinellas County Land Development Code are consistent with the Pinellas County Comprehensive Plan, and that the Board of County Commissioners approve the proposed amendments.

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**Correspondence:**

None

**Background and Discussion:**

This is a staff review and recommendation to the Local Planning Agency on a proposal to establish regulations governing dog friendly dining in unincorporated Pinellas County. Florida Statutes Section 509.233, the "Dixie Cup Clary Local Control Act", allows local governments to authorize the presence of patrons' dogs in certain designated outdoor portions of state-licensed public food service establishments as exemptions to the Food and Drug Administration Food Code. In order to implement this concept, local governments must adopt an ordinance providing for local permitting of the establishments, application procedures, and regulations. There is also a requirement that a system for the handling of complaints be established. The local jurisdiction must provide copies of applications, permits and complaint handling documentation to the state.

There are at least nine other local jurisdictions within Pinellas County that permit dog friendly dining based on the same statutory allowances cited above, all with programs implemented during the past four years. Staff successfully contacted eight of these jurisdictions (including St. Petersburg and Clearwater) to inquire about their respective programs, none of which stated having experienced any particular issues or difficulties.

Public food service establishments wishing to participate in Pinellas County's dog friendly dining program must obtain and possess a valid permit. Among other things, permit applications (forms that will be provided by the County) must include an accurate and to scale diagram and a description of the outdoor area to be designated as available to patrons' dogs.

Dog friendly dining permits must be renewed annually, are non-transferrable and do not run with the land. Staff recommends a permit application fee of \$215 to cover the cost of staff review, permitting and site inspection. The provisions of this Ordinance will apply to unincorporated areas only.

Regulations that permit holders must follow include rules for employee interactions with dogs, rules against dogs coming in contact with serving dishes and other items involved in food service operations, the provision of waterless hand sanitizer at all tables in the designated area, sanitizing tables and chairs between patrons, the provision of waste kits, and the posting of signs indicating those areas where dogs are allowed and signs reminding employees and patrons of the rules. Dogs must be kept on leashes at all times, must not be allowed on chairs or tables and will not be allowed to travel through indoor or undesignated outdoor portions of the establishment. All of these regulations are driven by state statutes and are common to all jurisdictions that allow dog friendly dining based on those statutes. Violations are subject to permit revocation and code enforcement proceedings. The County will need to respond to complaints related to dog friendly dining and report them and any necessary enforcement actions to the state, as required by statute.

The implementation of the dog friendly dining program will require a change to the Board Resolution establishing annual fees as well as the development of a permit application and procedure. Staff also recommends online promotion of the new permit requirements.

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## **IMPLEMENTATION OF THE PINELLAS COUNTY COMPREHENSIVE PLAN**

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Staff finds that the proposed Ordinance to amend Chapter 138 of the Land Development Code is consistent with the following Comprehensive Plan Principle, Goal and Policy:

### **Planning to Stay Element**

*Sustain a Quality Urban Community and Promote Strong Neighborhoods and Diverse Housing Opportunities*

**Principle 3:** To improve Pinellas County's appeal as a place to live and work, it will be necessary for the public and private sectors to focus more resources on improving the quality of the urban experience and the natural environment. Therefore, public policy should emphasize the importance of protecting and promoting community character, supporting economic development, and enhancing the lives of all segments of the County's population.

### **Future Land Use and Quality Communities Element**

Goal Two: Improve the quality of life in Pinellas County by creating diverse and well-designed walkable destinations that provide choices in housing, services, workplaces, and travel modes.

Policy 1.9.1: The Board shall continue to utilize its innovative development regulations and staff shall continue to examine innovative techniques used elsewhere for incorporation into the Board's planning and regulatory program.

## **STRIKE-THROUGH/UNDERLINE VERSION**

ORDINANCE 13- \_\_\_\_

AN ORDINANCE OF THE COUNTY OF PINELLAS, PROVIDING THAT THE PINELLAS COUNTY LAND DEVELOPMENT CODE BE AMENDED BY ADDING A SECTION TO BE NUMBERED 138-1349; PROVIDING FOR A DOG FRIENDLY DINING PROGRAM; PROVIDING FOR THE PURPOSE AND INTENT AND DEFINITIONS OF THE PROGRAM; PROVIDING FOR THE PERMIT SUBMITTAL REQUIREMENTS; PROVIDING FOR THE GENERAL REGULATIONS AND ENFORCEMENT PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR OTHER MODIFICATIONS THAT MAY ARISE FROM REVIEW OF THE ORDINANCE AT THE PUBLIC HEARING AND WITH RESPONSIBLE AUTHORITIES.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Pinellas County, Florida:

SECTION 1. That the Pinellas County Land Development Code is hereby amended adding a section to be numbered 138-1349, which section reads as follows:

**Sec. 138-1349 - Dog Friendly Dining Program**

**(a) Purpose and Intent; Program Created; Definitions.**

- (1) The purpose and intent of this section is to implement the program established by section 509.233, Florida Statutes, by permitting public food service establishments within Pinellas County, Florida, subject to the terms contained herein, to become exempt from certain portions of the United States Food and Drug Administration Food Code, as amended from time to time, and as adopted by the State of Florida Division of Hotels and Restaurants of the Department of Business and Professional Regulation, in order to allow patrons' dogs within certain designated outdoor portions of their respective establishments.**
- (2) Pursuant to section 509.233, Florida Statutes, there is hereby created in the County of Pinellas, Florida, a local exemption procedure to certain provisions of the United States Food and Drug Administration Food Code, as amended from time to time, and as adopted by the State of Florida Division of Hotels and Restaurants of the Department of Business and Professional Regulation, in order to allow patrons' dogs within certain designated outdoor portions of public food service establishments, which exemption procedure may be known as the Pinellas County Dog Friendly Dining Program.**
- (3) As used in this section, hereof:**

- a. “County Administrator” means the Pinellas County Administrator or his or her designee
- b. “Division” means the Division of Hotels and Restaurants of the State of Florida Department of Business and Professional Regulation.
- c. “Dog” means the domestic dog, canis familiaris.
- d. “Outdoor area” means a defined area adjacent to a public food service establishment.
- e. “Patron” has the meaning given to “guest” by section 509.013, Florida Statutes, as amended.
- f. “Public food service establishment” has the meaning given it by section 509.013, Florida Statutes, as amended.

(b) Permit Required; Submittals.

(1) In order to protect the health, safety, and general welfare of the public, a public food service establishment is prohibited from having any dog on its premises unless the public food service establishment possesses a valid permit issued in accordance with this section.

(2) Applications for a permit under this section shall be made to the County Administrator, on a form provided for such purpose by the County Administrator, and shall include, along with any other such information deemed reasonably necessary by the County Administrator in order to implement and enforce the provisions of this section, the following:

- a. The name, location, and mailing address of the subject public food service establishment.
- b. The name, mailing location, and telephone contact information of the permit applicant.
- c. A diagram and description of the outdoor area 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 any other areas of outdoor dining 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 reasonably required by the County Administrator. The diagram or plan shall be accurate and to scale but need not be prepared by a licensed design professional.

- d. A description of the days of the week and hours of operation that patrons' dogs will be permitted in the designated outdoor area.
- e. 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.
- f. All application materials shall contain the appropriate Division issued license number for the subject public food service establishment. Any permit issued to a public food service establishment under this section shall include the appropriate Division issued license number of that establishment.

(c) General Regulations; Cooperation; Enforcement.

(1) In order to protect the health, safety, and general welfare of the public, and pursuant to section 509.233, Florida Statutes, all permits issued pursuant to this section are subject to the following requirements:

- a. All public food service establishment employees shall wash their hands promptly after touching, petting, or otherwise handling any dog. Employees shall be prohibited from touching, petting, or otherwise handling any dog while serving food or beverages or handling tableware or before entering other parts of the public food service establishment.
- b. Patrons in a designated outdoor area shall be advised that they should wash their hands before eating. Waterless hand sanitizer shall be provided at all tables in the designated outdoor area.
- c. Employees and patrons shall be instructed that they shall not allow dogs to come into contact with serving dishes, utensils, tableware, linens, paper products, or any other items involved in food service operations
- d. Patrons shall keep their dogs on a leash at all times and shall keep their dogs under reasonable control.
- e. Dogs shall not be allowed on chairs, tables, or other furnishings.
- f. All table and chair surfaces shall be cleaned and sanitized between seating of patrons. Spilled food and drink shall be removed from the floor or ground between seating of patrons
- g. Accidents involving dog waste shall be cleaned immediately and the area sanitized. A kit with the appropriate materials for this purpose shall be kept near the designated outdoor area.



- h. At least one sign reminding employees of the applicable rules, including those contained in this section, and those additional rules and regulations, if any, included as further conditions of the permit by the County Administrator, shall be posted in a conspicuous location frequented by employees within the public food service establishment. The mandatory sign shall be not less than eight and one-half inches in width and eleven inches in height (8½ x 11) and printed in easily legible typeface of not less than twenty (20) point font size.
  - i. At least one sign reminding patrons of the applicable rules, including those contained in this section, and those additional rules and regulations, if any, included as further conditions of the permit by the County Administrator, shall be posted in a conspicuous location within the designated outdoor portion of the public food service establishment. The mandatory sign shall be not less than eight and one-half inches in width and eleven inches in height (8½ x 11) and printed in easily legible typeface of not less than twenty (20) point font size.
  - j. At all times while the designated outdoor portion of the public food service establishment is available to patrons and their dogs, at least one sign shall be posted in a conspicuous and public location near the entrance to the designated outdoor portion of the public food service establishment, the purpose of which shall be to place patrons on notice that the designated outdoor portion of the public food service establishment is currently available to patrons accompanied by their dog or dogs. The mandatory sign shall be not less than eight and one-half inches in width and eleven inches in height (8½ x 11) and printed in easily legible typeface of not less than twenty (20) point font size.
  - k. Dogs shall not be permitted to travel through indoor or undesignated outdoor portions of the public food service establishment, and ingress and egress to the designated outdoor portions of the public food service establishment shall not require entrance into or passage through any indoor or undesignated outdoor portion of the public food service establishment.
- (2) A permit issued pursuant to this section shall not be transferred to a subsequent owner upon the sale or transfer of a public food service establishment, but shall expire automatically upon such sale or transfer. The subsequent owner shall be required to reapply for a permit pursuant to this section if such owner wishes to continue to accommodate patrons' dogs.
- (3) Permits shall expire on September thirtieth (30) of each year. A public food service establishment must obtain a new permit for each fiscal year beginning on October first (1) to operate a dog friendly dining program.
- (4) A permit may be revoked if, after notice, 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 under subpart (6). A revocation determination may be appealed to the County Administrator within thirty (30) days of the date of the determination.

(5) In accordance with section 509.233, Florida Statutes, the County Administrator shall accept, document, and respond to complaints related to the Dog Friendly Dining Program within Pinellas County, and shall timely report to the Division all such complaints and the County's enforcement response to such complaint. The County Administrator shall also timely provide the Division with a copy of all approved applications and permits issued pursuant to this section.

(6) Any public food service establishment that fails to comply with the requirements of this section shall be in violation of this section of the Pinellas County Code and shall be subject to any and all enforcement proceedings pursuant to Section 134-8 of the Pinellas County Code and general law.

## SECTION 2. SEVERABILITY.

If any section, sentence, clause, phrase, or word of this Ordinance is, for any reason, held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Ordinance, and it shall be construed to be the legislative intent to pass this Ordinance without such unconstitutional, invalid or inoperative part therein.

## SECTION 3. EFFECTIVE DATE.

Pursuant to Section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners. This Ordinance shall become effective when the acknowledgment is received from the Secretary of State that the Ordinance has been duly filed.

## SECTION 4. INCLUSION IN THE PINELLAS COUNTY CODE.

The provisions of this Ordinance shall be included and incorporated in the Pinellas County Land Development Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Pinellas County Land Development Code.

## SECTION 5. AMENDMENT OF PROPOSED ORDINANCE AT PUBLIC HEARING.

Any section, subsection, sentence, clause, phrase, or provision of this Ordinance as proposed be amended, added, or deleted by majority vote of the Board of County Commissioners as a result of matters raised at the public hearing or in consultation with responsible authorities, and in such event, the amendments, additions or deletions shall be validly adopted without additional advertisement or hearing.

## **CLEAN VERSION**

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- d. "Outdoor area" means a defined area adjacent to a public food service establishment.
- e. "Patron" has the meaning given to "guest" by section 509.013, Florida Statutes, as amended.
- f. "Public food service establishment" has the meaning given it by section 509.013, Florida Statutes, as amended.

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- (2) Applications for a permit under this section shall be made to the County Administrator, on a form provided for such purpose by the County Administrator, and shall include, along with any other such information deemed reasonably necessary by the County Administrator in order to implement and enforce the provisions of this section, the following:
  - a. The name, location, and mailing address of the subject public food service establishment.
  - b. The name, mailing location, and telephone contact information of the permit applicant.
  - c. A diagram and description of the outdoor area 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 any other areas of outdoor dining 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 reasonably required by the County Administrator. The diagram or plan shall be accurate and to scale but need not be prepared by a

licensed design professional.

- d. A description of the days of the week and hours of operation that patrons' dogs will be permitted in the designated outdoor area.
- e. 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.
- f. All application materials shall contain the appropriate Division issued license number for the subject public food service establishment. Any permit issued to a public food service establishment under this section shall include the appropriate Division issued license number of that establishment.

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(1) In order to protect the health, safety, and general welfare of the public, and pursuant to section 509.233, Florida Statutes, all permits issued pursuant to this section are subject to the following requirements:

- a. All public food service establishment employees shall wash their hands promptly after touching, petting, or otherwise handling any dog. Employees shall be prohibited from touching, petting, or otherwise handling any dog while serving food or beverages or handling tableware or before entering other parts of the public food service establishment.
- b. Patrons in a designated outdoor area shall be advised that they should wash their hands before eating. Waterless hand sanitizer shall be provided at all tables in the designated outdoor area.
- c. Employees and patrons shall be instructed that they shall not allow dogs to come into contact with serving dishes, utensils, tableware, linens, paper products, or any other items involved in food service operations
- d. Patrons shall keep their dogs on a leash at all times and shall keep their dogs under reasonable control.
- e. Dogs shall not be allowed on chairs, tables, or other furnishings.
- f. All table and chair surfaces shall be cleaned and sanitized between seating of patrons. Spilled food and drink shall be removed from the floor or ground between seating of patrons
- g. Accidents involving dog waste shall be cleaned immediately and the area sanitized. A kit with the appropriate materials for this purpose shall be kept near the designated outdoor area.

- h. At least one sign reminding employees of the applicable rules, including those contained in this section, and those additional rules and regulations, if any, included as further conditions of the permit by the County Administrator, shall be posted in a conspicuous location frequented by employees within the public food service establishment. The mandatory sign shall be not less than eight and one-half inches in width and eleven inches in height (8½ x 11) and printed in easily legible typeface of not less than twenty (20) point font size.
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- (2) A permit issued pursuant to this section shall not be transferred to a subsequent owner upon the sale or transfer of a public food service establishment, but shall expire automatically upon such sale or transfer. The subsequent owner shall be required to reapply for a permit pursuant to this section if such owner wishes to continue to accommodate patrons' dogs.
- (3) Permits shall expire on September thirtieth (30) of each year. A public food service establishment must obtain a new permit for each fiscal year beginning on October first (1) to operate a dog friendly dining program.
- (4) A permit may be revoked if, after notice, 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 under subpart (6). A revocation determination may be appealed to the County Administrator within thirty (30) days of the date of the determination.

- (5) In accordance with section 509.233, Florida Statutes, the County Administrator shall accept, document, and respond to complaints related to the Dog Friendly Dining Program within Pinellas County, and shall timely report to the Division all such complaints and the County's enforcement response to such complaint. The County Administrator shall also timely provide the Division with a copy of all approved applications and permits issued pursuant to this section.
- (6) Any public food service establishment that fails to comply with the requirements of this section shall be in violation of this section of the Pinellas County Code and shall be subject to any and all enforcement proceedings pursuant to Section 134-8 of the Pinellas County Code and general law.

## SECTION 2. SEVERABILITY.

If any section, sentence, clause, phrase, or word of this Ordinance is, for any reason, held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Ordinance, and it shall be construed to be the legislative intent to pass this Ordinance without such unconstitutional, invalid or inoperative part therein.

## SECTION 3. EFFECTIVE DATE.

Pursuant to Section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners. This Ordinance shall become effective when the acknowledgment is received from the Secretary of State that the Ordinance has been duly filed.

## SECTION 4. INCLUSION IN THE PINELLAS COUNTY CODE.

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## SECTION 5. AMENDMENT OF PROPOSED ORDINANCE AT PUBLIC HEARING.

Any section, subsection, sentence, clause, phrase, or provision of this Ordinance as proposed be amended, added, or deleted by majority vote of the Board of County Commissioners as a result of matters raised at the public hearing or in consultation with responsible authorities, and in such event, the amendments, additions or deletions shall be validly adopted without additional advertisement or hearing.



APPROVED AS TO FORM  
OFFICE OF COUNTY ATTORNEY

By 

Attorney