

Sec. 9-79. - Variance for dogs on premises of a food establishment.

- (1) A food establishment with an outdoor patio under its exclusive ownership or control may apply to the regulatory authority for a variance modifying or waiving the prohibition against dogs on the premises of a food establishment contained in subsection 9-78(f)(1) of this Code, and Section 229.167(p)(15) of the TFER. The food establishment shall apply for the variance on a form provided by the regulatory authority and shall include in the application all of the information required by Section 229.171(c)(2) of the TFER. The application shall be accompanied by a nonrefundable variance application fee.
- (2) The regulatory authority may grant a variance, as authorized in subsection 9-108(c) of this chapter and Section 229.171(c) of the TFER, by modifying or waiving the requirements of the TFER or the requirements of subsection 9-78(f)(1) of this Code.
- (3) A food establishment granted a variance shall comply with any conditions or standards for the variance established by the regulatory authority or this chapter.
- (4) A variance granted under this section is nontransferable. The variance shall expire two (2) years after the date it is granted by the regulatory authority, unless it is sooner revoked by the regulatory authority or terminated by the food establishment. A variance may be renewed through the application process set forth in paragraph (1) of this section.
- (5) The regulatory authority shall deny or revoke a variance if:
  - (A) The application for variance contains a false statement as to a material matter;
  - (B) The food establishment does not hold a valid permit issued under this chapter;
  - (C) The regulatory authority determines that a health hazard or nuisance will result or has resulted from the variance;
  - (D) The food establishment failed to pay a fee required under this chapter at the time it was due; or
  - (E) The food establishment is in violation of any term or condition of the variance as established by the regulatory authority, this chapter, or state law.
- (6) If the regulatory authority denies or revokes a variance, the regulatory authority shall notify the applicant in writing by personal service or regular United States mail. The notice must include the reasons for the denial or revocation and a statement informing the applicant of the right to appeal the decision in accordance with section 9-115 of this chapter.
- (7) If the regulatory authority grants a variance to subsection 9-78(f)(1) of this chapter allowing dogs to be present in the outdoor patio area of a food establishment, then the food establishment shall comply with the following conditions and standards in addition to any other conditions and standards established by the regulatory authority for the variance under the authority of Section 229.171(b)(1) of the TFER:
  - (A) Except as allowed under subsection 9-78(f)(2) of this chapter, no dog may be present inside the food establishment or on any playground area of the food establishment.
  - (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 interior of the food establishment or any playground area of the food establishment. A dog may not 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) A sign must be posted at the front entrance of the food establishment so that it is easily visible to the public. The sign must state: "DOG FRIENDLY PATIO - DOG ACCESS ONLY THROUGH OUTDOOR PATIO."
- (D) 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 when not in use.
- (E) No food preparation, including mixing drinks or serving ice, may be performed in the outdoor patio area, except that a beverage glass may be filled on the patio from a pitcher or other container that has been filled or otherwise prepared inside the food establishment.
- (F) The outdoor patio must be continuously maintained free of visible dog hair, dog dander, and other dog-related waste or debris. The outdoor patio must be hosed down or mopped with a product approved under section 9-77 of this Code at the beginning of each shift during which food or beverages will be served (breakfast, lunch, dinner, or late-hours), except that cleaning under this subparagraph is not required if no dog has been present on the outdoor patio since the last cleaning.
- (G)
  - (a) All table and chair surfaces shall be non-porous, easily cleanable material and cleaned and sanitized with a product approved under section 9-77 of this Code.
  - (b) Spilled food and drink shall be removed from the floor or ground within five (5) minutes of the spill.
- (H) Waste created from a dog's bodily functions must be cleaned up with a product approved under section 9-77 of this Code within five (5) minutes after each occurrence. All dog waste must be disposed of outside of the food establishment in an appropriate waste receptacle. Equipment used to clean the outdoor patio must be kept outside of the food establishment.
- (I) While on duty, wait staff or other food handlers at the food establishment may not pet or have contact with any dog.
- (J) A card, sign, or other effective means of notification shall be displayed to notify patrons in the outdoor patio area that they should wash their hands before eating.
- (K) A dog must be kept on a leash, or in a secure bag or container specifically designed to carry and provide continuous restraint of dogs while providing adequate ventilation, and remain under continuous physical control of the customer while in the outdoor patio area. The dog must be wearing a collar or harness with a current rabies tag attached to it.
- (L) A dog is not allowed on a seat, table, countertop, or similar surface in the outdoor patio area.
- (M)

A dog is not allowed to have contact with any dishes or utensils used for food service or preparation at the food establishment.

- (N) A dog may not be given any food (including, but not limited to, dog kibble, biscuits, and edible treats) while in the outdoor patio area, but may be given water in a disposable container.
  - (O) The food establishment shall maintain written procedures to notify the City of Plano's Animal Services Division of any local rabies control incident as required by section 4-93 of this Code, or any other incident in which two (2) or more dogs are involved in any sort of altercation where they physically come into contact with each other, regardless of whether any of the animals are injured.
- (Ord. No. 2013-12-10, § I, 12-17-13)