

ORDINANCE NO. O2014-32

AN ORDINANCE OF THE CITY OF WILDWOOD, FLORIDA; CREATING SECTION 3.23 OF THE CITY OF WILDWOOD LAND DEVELOPMENT REGULATIONS; PERTAINING TO ALLOWING DOGS ON OUTDOOR PATIOS AT SIDEWALK CAFES, KNOWN AS DOG FRIENDLY DINING; PROVIDING FOR CODIFICATION IN THE LAND DEVELOPMENT REGULATIONS; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 509, Florida Statutes, requires the State of Florida Division of Hotels and Restaurants (the "Division") of the Department of Business and Professional Regulation (the "Department") to carry out all laws and rules relating to the inspection and regulation of public food service establishments for the purpose of safeguarding the public health, safety, and welfare; and

WHEREAS, subsection 509.032(7), Florida Statutes, expressly limits the general home rule powers of local governments as it relates to the regulation of public food service establishments; and

WHEREAS, notwithstanding subsection 509.032(7), Florida Statutes, the governing body of a local government may establish, by ordinance, a local exemption procedure to certain provisions of the Food and Drug Administration Food Code, as currently adopted by the division, in order to allow patrons' dogs within certain designated outdoor portions of public food service establishments (also known as "Dog Friendly Dining"); and

WHEREAS, restaurants in the City of Wildwood have requested that the City pass a local exemption so that they may be permitted to offer Dog Friendly Dining to their patrons; and

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the City Commission of Wildwood, Florida, as follows:

SECTION 1. Section 3.23 of the Zoning Chapter of the City of Wildwood Land Development Regulations is hereby created to include the following:

- (A) Local exemption authorized. There is hereby established a local exemption procedure to certain provisions of the Food and Drug Administration Food Code, as currently adopted by the state division of hotels and restaurants, in order to

allow patrons' dogs within certain designated outdoor portions of public food service establishments.

(B) Limitations on exemption; permit requirements.

- (1) This exemption shall only provide a variance to those portions of the currently adopted Food and Drug Administration Food Code in order to allow patrons' dogs within certain designated outdoor portions of public food service establishments.
- (2) In order to protect the health, safety, and general welfare of the public, participating public food service establishments shall apply for and receive a permit from the City's Development Services Department (the "department") before allowing patrons' dogs on their premises. The department may establish a fee schedule for such permits. The application for the permit shall include the following information:
 - (a) The name, location, and mailing address of the public food service establishment.
 - (b) The name, mailing address, 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 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 City. The diagram or plan should 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.
- (3) In order to protect the health, safety, and general welfare of the public, the following regulations and limitations shall apply to establishments which obtain such a permit:
 - (a) Employees shall be prohibited from touching, petting, or otherwise handling dogs while serving food or beverages or handling tableware or before entering other parts of the public food service establishment. All public food service establishment employees shall wash their hands promptly after touching, petting, or otherwise handling dogs.
 - (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. All dogs shall have all required licensing.
 - (e) Dogs shall not be allowed on chairs, tables, or other furnishings.
 - (f) All table and chair surfaces shall be cleaned and sanitized with an approved product 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 with an approved product in accordance with section 4-501.114 of the 2005 FDA Food Code. A kit with the appropriate materials for this purpose shall be kept near the designated outdoor area.
 - (h) A sign or signs reminding employees of the applicable rules shall be posted on premises in a manner and place as determined by the local permitting authority.
 - (i) A sign or signs reminding patrons of the applicable rules shall be posted on premises in a manner and place as determined by the local permitting authority.
 - (j) A sign or signs shall be posted in a manner and place as determined by the local permitting authority that places the public on notice that the designated outdoor area is available for the use of patrons and patron's dogs.
 - (k) Dogs shall not be permitted to travel through indoor or nondesignated 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.
- (4) A permit issued pursuant to this section shall not be transferred to a subsequent owner upon the sale of a public food service establishment but shall expire automatically upon the sale of the establishment. The subsequent owner shall be required to reapply for a permit pursuant to this section if the subsequent owner wishes to continue to accommodate patrons' dogs.
- (C) Violations. A violation of any of the permit requirements may result in suspension or revocation of the permit.
- (D) Location.
- (1) Dog Friendly Dining may be permitted in the following areas:

- (a) Private property; privately owned and maintained sidewalks and rights-of-way.
- (b) County or State maintained sidewalks or rights-of-way with proof of authorization of the appropriate jurisdiction.
- (2) Dog Friendly Dining may not be permitted in the following areas:
 - (a) City-maintained sidewalks or rights-of-way.
- (E) Indemnification Required. All applicants shall be required to acknowledge, at the time of application, that approval is conditioned on the applicant indemnifying and holding the City harmless for any loss or damage as a result of offering Dog Friendly Dining to their patrons. Such statement shall appear on the face of the Dog Friendly Dining application in bold, 14 pt. font.

SECTION 2. All ordinances or parts of ordinances in conflict herewith, be, and the same are hereby repealed.

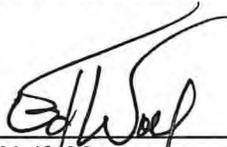
SECTION 3. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by a Court or competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of said Ordinance.

SECTION 4. This Ordinance shall be effective upon adoption during the second and final reading by the City of Wildwood City Commission.

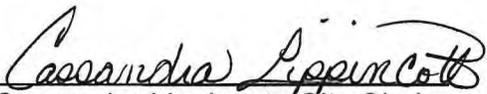
DONE AND ORDAINED this 23rd day of June, 2014, by the City Commission of the City of Wildwood, Florida.

CITY COMMISSION
CITY OF WILDWOOD, FLORIDA

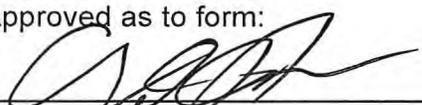
SEAL



Ed Wolf, Mayor

ATTEST: 
Cassandra Lippincott, City Clerk

First Reading: June 9th, 2014
Second Reading: June 23rd, 2014

Approved as to form:


Ashley Hunt, City Attorney