LIVINGSTON COUNTY HEALTH DEPARTMENT

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Guidance for Restaurants Requesting a Variance to Allow Dogs on Patios

The 2009 Michigan Modified Food Code (MMFC) does not allow for dogs on patios. Section 6-501.115 of the MMFC restricts the presence of animals in businesses that sell, prepare, or serve food. An exception under 6-501.115 allows service animals that are controlled by a person with a disability. This Food Code exception aligns with the Americans with Disabilities Act (ADA) requirements. Under the ADA, service dogs individually trained to do work or perform tasks for the benefit of an individual with a disability must be allowed in all public areas of all food service establishments. Emotional support animals, comfort animals, and therapy animals are not considered service animals under the ADA.

However, a food establishment may apply for a variance to the 2009 Michigan Modified Food Code based off the 2022 FDA Food Code that has not been adopted by the State of Michigan. A variance allows the Livingston County Health Department to go outside of the MMFC and use the most recent scientific-based evidence in the 2022 FDA Food Code which states that local jurisdictions may allow for dogs on patios.

Variance Application

To apply for Variance for Dogs on Patios, please submit the following information to the Livingston County Health Department:

- Completed **Variance Request Form** and associated **Change of Use/Variance fee of $250**
- New SOPs specific to **Dogs on Patios Policy and Procedures**

Dogs on Patios Policy and Procedures

In the designated outdoor dining area, the following policy must be followed:

1. A separate outdoor entrance is present where dogs enter without going through the food establishment.
2. The dog shall be on a leash and controlled by the customer at all times.
3. Employees shall not touch, pet, or otherwise handle any animal while serving food or beverages or handling tableware.
4. Accidents involving dog waste shall be cleaned immediately with the dog waste kit. The kit shall include gloves and other effective means of preventing contamination of employees and supplies needed to ensure the area is effectively washed and sanitized. Employees that do come into contact with dogs or dog waste are required to properly wash hands after each incident.
5. Pets are not allowed on chairs, benches, seats or patron's lap, or to contact a tabletop, countertop, or any food contact surface in the outdoor dining area.

6. Food and water provided to pets shall only be in single-use disposable containers.
7. A sign with letters large enough to be easily legible to the average person from eight (8) feet shall be posted at public entrances of the food establishment. The sign shall state: "Dog friendly outdoor dining area – dog access only through outdoor dining area" or similar wording. The sign shall also include the rules the dog owner must abide by in a smaller font.
8. The outdoor dining area must be maintained free of visible animal hair, dander, and other animal-related waste and debris. All animal waste shall be disposed of at least daily outside of the food establishment in a covered waste receptacle. Equipment used to clean the outdoor dining area must be kept stored separate from all other cleaning equipment so as to not contaminate areas of the food establishment.
9. The food establishment owner shall request that a pet owner remove from the establishment any pet that menaces, threatens or bites any person or other pet.
10. A submitted variance according to the Michigan Modified 2009 Food Code that includes standard operating procedures as to how these requirements will be achieved has been reviewed and approved by Livingston County Health Department regarding dogs in an outdoor seating area.

Additional Information

- The food establishment owner shall ensure compliance with local ordinances related to sidewalks, public nuisance, and sanitation.
- The facility's history of compliance and non-compliance with the Food Code may be taken into consideration, including evidence of Active Managerial Control.
- All variances are subject to revocation if non-compliance to variance requirements is found.
- Variances are subject to review, and changes may be necessary if requirements, laws, etc. are updated.

Recommendations

- LCHD recommends dogs permitted on the patio should be licensed and up-to-date with required vaccinations.
- LCHD highly recommends each facility consider a discussion with insurance provider as to liability coverage.
- LCHD recommends that handwashing facilities are readily available, easily accessible, and conveniently located near outdoor areas that permit dogs.