

**ORDINANCE NO. 53-2019**

**AN ORDINANCE AMENDING CHAPTER 11, "FOOD AND FOOD HANDLERS," SECTION 11-5, "DOGS IN FOOD ESTABLISHMENTS," OF THE CODE OF THE CITY OF ABILENE BY AMENDING THE ARTICLE AS SET OUT BELOW, PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.**

**WHEREAS**, Chapter 11 of the Abilene Code of Ordinances Food and Food Handlers provides rules to safeguard public health and to provide consumers food that is safe, unadulterated, and honestly presented, within the City of Abilene; and

**WHEREAS**, Chapter 437, Section 437.025(a) of the Texas Health and Safety Code has been amended effective September 1, 2019 to provide requirements for food service establishments that allow dogs in outdoor dining areas; and

**WHEREAS**, Section 437.025(b), Texas Health and Safety Code, provides that a municipality may not adopt or enforce an ordinance, rule, or similar measure that imposes a requirement on a food service establishment for a dog in an outdoor dining area that is more stringent than the requirements described by Subsection (a); and

**WHEREAS**, the City of Abilene, on August 23, 2018, Adopted Section 11-5 of the Code of Ordinances, which imposes requirements on a food service establishment for a dog in an outdoor dining area that are more stringent than the new requirements established under Section 437.025(a) of the Texas Health and Safety Code; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:**

**PART 1:** That Chapter 11, "Food and Food Handlers," Section 11-5, "Dogs in Food Establishments", of the Code of Ordinances of the City of Abilene, Texas, is hereby amended as set out in Exhibit A, attached and made a part of this ordinance for all purposes.

**PART 2:** That if the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not effect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

**PART 3:** That any person, firm, or corporation violating the provisions of this Ordinance shall be deemed to have committed a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1 (Section 1-9) of this Code.

**PART 4:** Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

**PASSED ON FIRST READING this 12<sup>th</sup> day of September, 2019.**

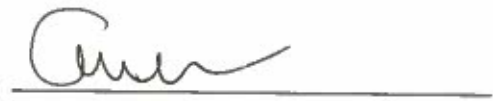
A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 22<sup>nd</sup> day of September, 2019, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 4:30 p.m. on the 26<sup>th</sup> day of September, 2019, to permit the public to be heard.

**PASSED ON SECOND AND FINAL READING this 26<sup>th</sup> day of September, 2019.**

ATTEST:



CITY SECRETARY



MAYOR



CITY ATTORNEY

**ORDINANCE NO. 53-2019**

**EXHIBIT "A"**

**Sec. 11-5. Dogs in food establishments.**

(a) A food establishment may permit a customer to be accompanied by a dog in an outdoor dining area if:

(1) the establishment posts a sign in a conspicuous location in the area stating that dogs are permitted;

(2) the customer and dog access the area directly from the exterior of the establishment;

(3) the dog does not enter the interior of the establishment;

(4) the customer keeps the dog on a leash and controls the dog;

(5) the customer does not allow the dog on a seat, table, countertop, or similar surface; and

(6) in the area, the establishment does not:

(A) prepare food; or

(B) permit open food other than food that is being served to a customer.

(b) the requirements described by subsection (a) do not apply to a service animal as defined in Section 437.023(c) of the Texas Health and Safety Code.