



## City of Nashua Environmental Health Department

### Variance Requirements for Dog Friendly Outdoor Dining

Chapter 170-5 of Nashua's Revised Ordinances adopts the State Food Code, He-P 2300 *Sanitary Production and Distribution of Food*. In 2010, the State of NH adopted the FDA 2009 Food Code. According to 6-501.115 of the 2009 FDA Food Code, live animals are not allowed on the premises of a food establishment, with some notable exceptions such as service animals, patrol dogs, and edible fish in tanks. Outdoor dining is included in the definition of "premises" in the 2009 FDA Food Code. He-P 2304.14 allows a food service establishment to apply to the regulatory authority for a variance from the rules on an annual basis, provided alternatives put into place will be equally protective of the public's health, and ensures that the objective or intent of the rule is accomplished.

A Food establishment, hereinafter "Establishment", that elects to allow dogs at outdoor dining must agree and adhere to the following variance conditions:

1. The variance is for dogs only and shall not apply to any other animals or pets.
2. Establishment shall post signage provided by the Environmental Health Department (see attached) legible from the furthest outdoor dining table.
3. All dogs allowed in outdoor dining areas shall wear a collar or harness and leash, or be in an enclosed animal carrier.
  - a. All dogs shall wear current license tag per RSA 466:1 or shall show a current dog license issued by a municipality.
  - b. All dogs must be vaccinated against rabies and maintain current vaccination status per RSA 436:100.
4. Establishment owners with outdoor dining on City property are required to maintain liability insurance covering dog incidents.
5. Dogs must be under the direct control of an adult at all times.
  - a. No customer in the outdoor dining area shall have control of more than one (1) dog.
  - b. Dogs shall be confined to the immediate dining area where the customer having control of the dog is seated.
  - c. Dogs shall not be allowed on a patrons lap, seat, table, countertop, or any similar surface in the outdoor dining area.
  - d. Dogs shall not disturb other guests in the outdoor dining area.
  - e. Dogs shall not come into contact with utensils, serving dishes, tableware, or other food service equipment used in the preparation or service of food

- f. Dogs shall not be given any food, even dog food, while in the outdoor dining area, but may be given water in a single serve, disposable container or a bowl provided by the dog owner.
6. Dogs shall not be within seven (7) feet of any entrance or exit to the interior of the Establishment.
  - a. Dogs shall not pass through an indoor area of a restaurant to access the outdoor dining area
7. No preparation of food, mixing of drinks, and storage of food or ice is allowed in the outdoor dining area
8. Establishment employees shall not touch, pet, or otherwise handle dogs in any manner
  - a. If incidental contact with a dogs occurs, the employee shall immediately wash their hands before proceeding to any other task
9. The outdoor dining area shall be continuously maintained free of visible dog hair, dog dander, and any other dog related waste and debris.
  - a. All table and chair surfaces shall be non-porous and easily cleanable.
  - b. Fecal, vomit, or urine incidents must be cleaned and sanitized immediately by the party having control over the dog, or another person not involved in the preparation and/or service of food, using animal-friendly chemicals provided by the Establishment. All dog waste shall be disposed of in an appropriately covered waste receptacle outside of the dining area.
  - c. Separate cleaning supplies (Mop, Bucket, and Supplies), clearly labeled for outdoor use only, shall be used to clean outdoor dining areas, and shall be stored separate from the mop, bucket, and supplies used for indoor cleaning.
  - d. Outdoor dining areas shall be hosed down or mopped with animal friendly chemicals at the beginning of each shift during which food or beverages will be served (i.e. breakfast, lunch, dinner), except that cleaning will not be required if no dog has been present in outdoor dining since the last cleaning.
10. All incidents pertaining to dogs shall be reported to the Nashua Police Department, 603-594-3500.

Any variance issued pursuant to this application will be valid through December 31<sup>st</sup> of the year of issuance, and may be renewed. The variance is non-transferrable, and will be suspended or revoked if the Establishment's food service license is suspended or revoked. Furthermore, the variance may be suspended or revoked, or renewal denied, if there has been a violation of the conditions of the variance. The variance must be posted at all times in a conspicuous place for the public to view.

After the implementation of this variance process, food establishments that allow dogs or other live animals into the establishment or in outdoor dining areas without a valid variance, or establishments allowing dogs or other live animals onto the premises after a variance has been suspended or revoked, may be subject to being issued a citation and having to pay a penalty, as outlined in Chapter 74 of Nashua's Revised Ordinances.