

**Conference for Food Protection
2020 Issue Form**

Issue: 2020 I-028

Council Recommendation: Accepted as Submitted _____ Accepted as Amended _____ No Action _____

Delegate Action: Accepted _____ Rejected _____

All information above the line is for conference use only.

Issue History:

This is a brand new Issue.

Title:

Amend Food Code – Permit Pet Dogs in Outdoor Dining Areas

Issue you would like the Conference to consider:

Within the past 13 years, 19 states and the District of Columbia have adopted policies through various mechanisms to allow pet dogs in outdoor dining areas, a map of which is included as a supporting attachment titled "States Allowing Pet Dogs in Outdoor Dining Areas." However, significant confusion remains for food establishment owners as to whether they are permitted to allow pet dogs in their jurisdiction, and if they are, what additional procedures are necessary to ensure food safety is not compromised. Amending Section 6-501.115 of the Food Code to allow pet dogs in outdoor dining areas would provide clear guidance to states and municipalities that such activity would not compromise public health, provided the safeguards included in this proposal are followed.

Public Health Significance:

As pet ownership rises in the United States, an increasing number of people are looking to incorporate their pets into more aspects of their daily lives, including bringing them to retail and dining establishments. With this increasing demand, more and more restaurants are adopting pet-friendly policies that allow pet dogs in their outdoor dining areas.

The movement to allow pet dogs in outdoor dining areas began in the mid- to late-2000s when four states passed legislation giving municipalities discretion to permit pet dogs in outdoor dining areas, provided they follow certain regulatory requirements: Florida, Illinois, Minnesota, and Tennessee. In 2011, Maryland and New Mexico went a step further and enacted laws allowing restaurants to permit the practice under certain circumstances. However, there was still limited research as to the public safety effects and risks of allowing pet dogs in outdoor dining facilities.

In 2012, Food Standards Australia New Zealand (FSANZ), the government agency responsible for developing food standards for Australia and New Zealand, proposed amending its Food Standards Code to allow pet dogs in outdoor dining areas of food establishments. As part of its deliberation, FSANZ conducted a risk assessment to

determine the food safety implications arising from the proposal. A copy of the risk assessment is included as a supporting attachment, titled "FSANZ Risk Assessment - Companion Dogs in Outdoor Dining Areas." The agency determined that the risk to humans is "very low to negligible" and approved the proposal for the following reasons:

- Dogs would not be ordinarily allowed into food preparation areas, making the risk of direct contact with food negligible;
- Indirect foodborne transmission of diseases through an intermediary, such as rodent, insects, or food establishment personnel, is highly unlikely. This relies on the occurrence of two events: (1) a successful transmission from pet dog to intermediary, and (2) successful transmission from intermediary to customer. The probability of either event was determined to be low;
- Potential direct or indirect contamination of food from pet dogs can be managed through compliance with general food safety and hygiene standards; and
- Studies indicated that contact between people and dogs that are not their own is limited, minimizing the potential for contact and, consequently, transmission of diseases from dogs to humans.

Since then, more states have enacted policies that would allow pet dogs in outdoor dining areas, e.g.:

- In 2014, California passed legislation allowing the practice under certain circumstances, citing the FSANZ risk assessment in the bill analysis.
- New York passed legislation similar to the California bill in 2015.
- In November 2019, due to increasing pressure from restaurant owners and local officials, Mississippi State Department of Health announced a policy change, whereby restaurants may apply for a variance to the state's Food Code to create dog-friendly outdoor dining spaces.

As a result of these different approaches, there is a hodgepodge of states and municipalities that allow pet dogs in outdoor dining areas, each with their own set of food safety standards for restaurants to follow. This has led to confusion on the part of restaurant owners and customers as to whether food establishments are allowed to have dog-friendly outdoor dining areas and, if so, what sanitary requirements they are required to follow.

This submission would neutralize this problem by giving food establishments the flexibility to allow pet dogs in outdoor dining areas and establish strong regulatory requirements restaurants to ensure food safety. Many retailers have outdoor seating areas, and this proposal is in line with their business practices and customer needs. One national set of standards for businesses brings clarity to businesses and customers and embraces the growing trend of people incorporating their pets into everyday activities, without compromising public safety.

Recommended Solution: The Conference recommends...:

A letter be sent to the FDA requesting that Section 6-501.115 of the most current edition of the Food Code be amended as follows (new language is underlined; existing language to be deleted is in strikethrough format):

6-501.115 Prohibiting Animals.

A. Except as specified in ¶¶ (B) and (C) of this section, live animals may not be allowed on the premises of a food establishment.

B. Live animals may be allowed in the following situations if the contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles can not result:

1) Edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;

2) Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;

3) In areas that are not used for food preparation and that are usually open for customers, such as dining and sales areas, service animals that are controlled by the disabled employee or person, if a health or safety hazard will not result from the presence or activities of the service animal;

4) Pets in the common dining areas of institutional care facilities such as nursing homes, assisted living facilities, group homes, or residential care facilities at times other than during meals if:

a. Effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas,

b. Condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present, and

c. Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service; ~~and~~

5) In areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly confined, such as in a variety store that sells pets or a tourist park that displays animals; and

6) Pet dogs under the control of a person in an outdoor dining area, or a designated portion of it, if:

a. The owner of the food establishment elects to allow pet dogs.

b. The pet dog is on a leash or confined to a pet carrier.

c. A separate outdoor entrance is present where pet dogs enter without going through the food establishment.

d. Signs are conspicuously posted indicating that pet dogs are allowed in the outdoor dining area.

e. Pet dogs are not allowed on chairs, benches, seats, or other fixtures.

f. The outdoor dining area is not used for food or drink preparation or the storage of utensils.

g. Food and water provided to dogs shall only be in single-use disposable containers.

h. Food establishment employees are prohibited from having direct contact with dogs while on duty. Any employee who does have such direct contact shall wash their hands thoroughly.

i. The outdoor dining area is maintained clean, and surfaces that have been contaminated with dog excrement or other body fluids shall be cleaned and sanitized.

j. A covered refuse container shall be located in the outdoor dining area and shall be used exclusively to store all pet waste generated.

k. The food establishment owner ensures compliance with local ordinances related to sidewalks, public nuisance, and sanitation, and

l. The food establishment owner shall request that a pet dog owner remove from the establishment any dog that menaces, threatens or bites any person or other dog. The food establishment owner shall not serve a dog owner who refuses to comply with a request to remove such a dog.

C. Live or dead fish bait may be stored if contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles can not result.

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Supporting Attachments:

- "Pet Dogs In Outdoor Dining Areas - Current State Policies"
- "FSANZ Companion Dogs in Outdoor Dining Areas Risk Assessment"
- "Letter of Support - Mayor of St. Petersburg, FL"
- "Letter of Support - Mississippi State Department of Health"

It is the policy of the Conference for Food Protection to not accept Issues that would endorse a brand name or a commercial proprietary process.