



## POLICY BRIEF DRAFT ONE

**Date:** 8/1/2017  
**Title:** Service Animals in Food Service Establishments  
**Contact:**

### INTRODUCTION

---

In Clark County and Washington State as whole, the entry of pets into food establishments is an important, multifaceted issue that affects all members of the community including business owners, food service workers, people with disabilities, and the general public. Learning the legislation that protects both businesses and people with disabilities alike ensures the full compliance of these laws, as well as educates employees what to do when confronted with service animal fraud. With this information, businesses can ensure the equal treatment of those with disabilities while also complying with the rules and regulations of the Washington State Food Code, enabling a better dining experience for all members of the community.

### BACKGROUND

---

A service animal, as defined by Washington State Law (RCW 49.60.040<sup>1</sup>), is an “animal that is trained for the purpose of assisting or accommodating a disabled person’s sensory, mental, or physical disability” including guide dogs, disability dogs, and miniature horses. In order for an animal to be considered a service animal, it must be trained beyond basic obedience, as well as perform a specific task(s) for their handler that is more than just presence based. A household pet typically does not receive training beyond basic obedience while emotional support and guard dogs are used for their innate characteristics and do not perform any definite skill in order to do their duty, and are therefore not permitted on the grounds of a food establishment.

A food establishment encompasses not only the areas where food is prepped, cooked, stored, and served, but also all areas under the food licensing permit. This permit includes the physical facility, the contents within, as well as the land or property in which the establishment resides (WA Food Code<sup>2</sup>). The facility itself may be “mobile, stationary, temporary, or a permanent facility” and also includes establishments where food is not consumed on the premises; despite whether there is a charge for the food or not (WA Food Code). Under the Washington State Food Code, a pet is not enabled entry into

---

<sup>1</sup> [RCW 49.60.040](#) Sourced on 7/24/17

<sup>2</sup> [Washington State Food Code](#) Sourced on 7/24/17



any part of the establishment that is covered by the food licensing permit. However, this exclusion does not apply to disabled patrons and their service animals.

## RESPONSE

### RIGHTS OF SERVICE ANIMALS

Washington State as well as federal legislature protects the rights of service animals in all aspects of daily life, including specific rules for within food establishments. According to Title 49, food establishments must accommodate service animals by altering processes, policies, and procedures within the permitted area that interfere with the animals ability to perform its job (RCW 49.60.218<sup>3</sup>), regardless of the disability or use of the animal (WAC 162-26-130<sup>4</sup>). Service animals are also permitted in all public areas of an establishment and may not be segregated to separate facilities within the operation. The rights of service animals are instrumental in interacting with all animals within an establishment; enabling fair and just treatment for those with disabilities.

A restaurant is required to make all reasonable accommodations for those with a service animal, including those who enter with a miniature horse. A miniature horse is roughly the same size as a large dog and is typically utilized for heartier tasks that require a sturdier animal than a dog. Food establishments should consider what accommodations need to be made in order for the horse to safely reside within the premises without causing serious safety concerns (RCW 49.60.218). These concerns may include blockage of fire exits and other fire code violations, as well as whether or not the handler is in control of the animal (National Restaurant Association<sup>5</sup>). The assessments that need to be made before a horse can be excluded are “1) whether the miniature horse is housebroken; 2) whether the miniature horse is under the owner’s control; 3) whether the facility can accommodate the miniature horse’s type, size, and weight; and 4) whether the miniature horse’s presence will not compromise legitimate safety requirements necessary for safe operation of the facility” (ADA Requirements for Service Animals<sup>6</sup>). If no reasonable accommodations can be performed, the miniature horse may be excluded.

All service animals are permitted access into any public areas of a food establishment and employees may not interfere with an animal’s ability to perform its task. Disabled patrons and their service animals are enabled the full rights of any customer within a restaurant including the rights to “admission, patronage, custom, presence, frequenting, dwelling, [or] staying” within a food establishment (RCW 49.60.218). Establishments are also not enabled to charge fees for accommodation, entry, or use of a

<sup>3</sup> [RCW 49.60.218](#) Sourced on 7/24/17

<sup>4</sup> [WAC 162-26-130](#) Sourced on 7/24/17

<sup>5</sup> [National Restaurant Association](#) Sourced on 7/24/17

<sup>6</sup> [ADA Requirements for Service Animals](#) Sourced on 7/25/17



service animal within their confines (ADA Requirements for Service Animals). Any person or place of business that performs an activity that infringes upon the rights of the disabled (including one that disallows or tries to prevent the entry or use of a service animal) will be charged with a gross misdemeanor under the “White Cane Law” (RCW 70.84.070<sup>7</sup>).

### EMPLOYEE TRAINING

Identifying a service animal is a key skill for all employees to use once any animal enters the premises of a food establishment. A service animal can be any breed of dog, small or larger, or even a miniature horse, and is also not required to wear a vest for identification in Washington State (National Restaurant Association). An employee should rather pay attention to the animal’s behavior. As a trained professional, service animals should not be misbehaving nor be wandering, barking excessively, socializing, or eating. If an animal is disobedient, there is a chance that this is a pet rather than a service animal and can be expelled from the food establishment. However, barking or growling may be a facet of the animal’s duty and must be considered before expulsion (WA State Guide to Service Animals...<sup>8</sup>).

Employees should ask the following questions before removing any animal from their establishment. Under Washington State law, it is acceptable for an employee to ask 1) If the animal is a service animal and 2) What task is the animal trained to perform (ADA Requirements for Service Animals). If the patron refuses to answer or mentions the animal is a pet or not trained, the employee may ask the patron to remove their animal from the restaurant. An employee MAY NOT ask for proof of service including documentation, witnessing the action, or ask about the person’s disability itself. An employee should also only directly address the service animal if permitted by the handler and should never feed or pet the animal under any circumstance (WA State Guide to Service Animals...).

A handler is expected to remain in control of their service animal, either by hand or voice, during the entire duration of their stay. A service animal is expected to be well mannered at all times and should not be a distraction for any patrons within the restaurant. A service animal should not defecate on the premises, excessively bark, show signs of aggression, or act wild while within the permitted area of the food establishment. Any animal who fails to be well mannered can be removed from establishment (WA State Guide to Service Animals...).

A completed list of all grounds for expulsion as defined by the Guide to Service Animals and the Washington State Law Against Discrimination 2013 are copied below.

<sup>7</sup> [RCW 70.84.070](#) Sourced on 7/24/17

<sup>8</sup> [Guide to Service Animals and the Washington State Law against Discrimination](#) 2013 Sourced on 7/24/17



An animal may be excluded from a food establishment:

- If the handler discloses their disability, but refuses to disclose what the animal is trained to do for them, the animal can be excluded.
- If the handler provides documentation or certification that the animal is a service animal, but neither the documentation nor the handler can explain what the animal is trained to do, the business can exclude the animal. (There is no state or federal service animal registry or certification process, so such documentation has no legal meaning and is often purchased on the Internet.)
- If the handler answers only that the animal can sit, stay, lie down, come when called, or do something else related to obedience and good manners, this does not indicate the animal is trained to provide services for a disability, and the animal can be excluded.
- If the handler answers that the animal makes them feel better, helps them calm down, eases their depression, or something similar, this would indicate that it is the animal's presence alone that helps the handler, and that the animal is not trained to do a task or provide a service. Because the animal does not meet the training requirement, the business can exclude the animal.

A service animal may not be excluded:

- If the handler answers that the animal is trained to guide them, help with balance or mobility, alert them to a condition (either physical or situational), pick up or carry items, remind them to take medication, get help, stabilize them during a seizure, redirect their attention from a trigger, or do some other task or provide some service that the person is unable to do themselves or helps with a disability, **then the animal is a trained service and must be allowed.**

## CONSIDERATIONS

---

Neither fear of dogs nor allergies regarding pets are grounds for expulsion according to the Americans with Disability Act. A service animal and their handler may not be isolated, treated differently, or charged a fee in a food establishment (ADA Requirements for Service Animals). Fees or deposits required by businesses for animals do not apply to service animals and must be waived.

If a service animal is misbehaving and is asked to leave the food establishment, the handler is allowed to reenter the business if unaccompanied by the service animal.

Under the food permit, outdoor dining facilities are considered on the premises, therefore disallowing pets from entering outside zones (WA State Food Code).

## NEXT STEPS

---



Implementing employee training at all food establishments within Clark County will enable better understanding and adherence to legislature regarding animals and food service. Asking patrons the two questions approved by the ADA- 1) If the animal is a service animal and 2) What task is the animal trained to perform- enables employees to follow both the food code as well as the ADA. This essential part of training would allow accurate identification of service animals and their handlers; assisting in the removal of pets from the premises.

The act of committing service animal fraud is an offense in only 18 states and includes punishments of fees, community service, or gross misdemeanors. In Washington state, fraud is punishable under the White Cane Law, with a gross misdemeanor for anyone who “is not totally or partially blind or is not hearing impaired to use a dog guide or any pedestrian who is not otherwise physically disabled to use a service animal” (RCW 70.84.060<sup>9</sup>). Enforcement of these laws are critical in both the stopping of fraud, as well as the guarantying of equal rights for those with disabilities.

Providing flyers as reminders of the rules and rights of service animals will serve to remind employees as well as the public on the purpose of animal assistance. This flyer should contain but is not limited to information regarding: questions that may be asked, questions that may not be asked, corrections to common misconceptions, as well as references to contact. This flyer should be distributed to all food establishments within Clark County jurisdiction, as well also our partners and non-profits.

## SUMMARY

---

The use of service animals in food establishments is critical to ensuring the full endowment of rights for people with disabilities as well as their assistance animals. Training employees to not only recognize service animals through physical identification, but also to ask ADA endorsed questions ensures that all patrons within a food establishment are treated with equal rights and respect. However, the removal of both pets and unruly service animals is fundamental in providing a safe and better dining experience; guaranteeing improved community health in Clark County.

## RESOURCES

---

### Washington Service Dog Association

<sup>9</sup> [RCW 70.84.060](#) Sourced on 7/24/17



Sydney Nelson  
Email: [sydneynelson509@gmail.com](mailto:sydneynelson509@gmail.com)  
Phone: 509-780-1380

**The Assistance Dog Club of Puget Sound**

Email: [assist\\_dog\\_club@hotmail.com](mailto:assist_dog_club@hotmail.com)  
Website: <http://www.assistancedogclub.org/>

**NW ADA Office**

Website: <http://nwadacenter.org/>  
Email: [nwadactr@uw.edu](mailto:nwadactr@uw.edu)  
Phone: 800-949-4232

**Washington Department of Health**

Website: <http://www.doh.wa.gov/>  
Food Safety Rules and Regulation Website:  
<http://www.doh.wa.gov/CommunityandEnvironment/Food/FoodWorkerandIndustry/FoodSafetyRules>  
Phone: 360-236-3330

**WASHINGTON STATE HUMAN RIGHTS COMMISSION**

Website: <http://www.hum.wa.gov/>  
Phone: 800-233-3247