



# COLORADO

## Department of Public Health & Environment

Dedicated to protecting and improving the health and environment of the people of Colorado

PROGRAM:	RETAIL FOOD
EFFECTIVE REGULATION:	<i>Colorado Retail Food Establishment Rules and Regulations, January 1, 2019</i>
GUIDANCE NO.:	<b>G21-02</b>
DATE:	February 1, 2021
SUBJECT:	<b>Guidance – Permissibility of Service Animals in Retail Food Establishments</b>

### Purpose

The purpose of this document is to provide answers to frequently asked questions regarding service animals in Colorado retail food establishments.

### What are the applicable laws and regulations regarding service animals?

- **The American's with Disabilities Act (ADA):** a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public.
- **The Colorado Retail Food Establishment Rules and Regulations:** section 6-501.115(B)(3) contains specific requirements in respect to service animals in retail food establishments.
- **The Colorado Revised Statutes:** section 18-13-107.3 establishes the intentional misrepresentation of an animal as a service animal as unlawful.

### Does a retail food establishment have to allow the admittance of service animals?

In accordance with the ADA, privately owned businesses that serve the public are required to allow people with disabilities to bring their service animals onto the business premises. The *Colorado Retail Food Establishment Rules and Regulations* are in alignment with the ADA by allowing the admittance of service animals in certain areas of retail food establishments.

### What is a service animal?

A service animal is defined as any dog or miniature horse that is individually trained to do work or perform tasks for the benefit of an individual with a disability; including a physical, sensory, psychiatric, intellectual, or other mental disability. The work or tasks performed by a service animal must be directly related to the handler's disability. Examples of such work or tasks include, but are not limited to, guiding people who are blind, alerting deaf individuals, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, and calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack.

### Is an emotional support animal a service animal?

The ADA does not recognize animals whose sole function is to provide comfort or emotional support as service animals, because emotional support, well-being, comfort, and/or companionship do not constitute work or tasks. Although emotional support animals can be valuable, it is primarily their presence for comfort or security that is beneficial to the person.

## **What questions can be asked to determine if an animal is a service animal?**

Service animals are not required to wear a vest or any other kind of identification and can be difficult to identify by sight alone. When it is not obvious what service an animal provides, only the following questions are allowed to be asked to determine if an animal is a service animal or a pet:

- **Is the animal required because of a disability?**
- **What work or task has the animal been trained to perform?**

Public entities (including local public health agencies) cannot require documentation or proof that the animal has been certified, trained, or licensed as a service animal.

## **What areas of the retail food establishment are service animals allowed?**

The *Colorado Retail Food Establishment Rules and Regulations* allow service animals in areas that are usually open to customers, such as a dining room or sales area. The code does not allow service animals in food preparation areas or other areas where there is a possibility for the contamination of food; clean equipment, utensils, and linens; and unwrapped single-use items. Individuals with disabilities who use service animals cannot be isolated from other patrons or treated less favorably than other patrons.

## **What accommodations should be made for an employee of a food establishment that requires a service animal?**

Accommodations are unique to the individual and the facility and should be made on a case-by-case basis. If your establishment has an employee that requires a service animal, please contact the Colorado Department of Public Health and Environment, Division of Environmental Health and Sustainability, at (303) 692-3645.

## **If a service animal is in my restaurant, what are my responsibilities and what are the responsibilities of the handler?**

When present, the service animal must be controlled by the handler via a leash, harness, or tether, unless these devices interfere with the service animal's work or the individual's disability prevents the use of these devices. Should this be the case, the handler must maintain control of the animal through voice, signal, or other effective means. The retail food establishment staff is not responsible for the care and supervision of a service animal.

## **When is it acceptable to exclude or remove a service animal?**

A public entity may exclude or ask a handler to remove a service animal under certain circumstances. Circumstances in which a public entity may ask that service animal be removed include:

- The animal displaying aggressive behavior or acting out of control and the handler does not take effective action to control it.
- The animal is not housebroken.
- The animal is described as a service animal but the handler cannot disclose the task the animal is trained to perform.
- The animal's behavior poses a direct threat to the health or safety of others.

Decisions to exclude animals are at the discretion of the food establishment and should be made on a case-by-case basis. It is recommended that any incidents involving the exclusion of a service animal be documented. Allergies and a fear of dogs are not valid reasons for denying access or refusing service to a person with a service animal.

If an animal is properly excluded or removed from the premises, the public entity must give the

individual with a disability the opportunity to participate in the service, program, or activity without having the service animal on the premises.

#### **Are pet dogs (not service animals) allowed in outdoor dining areas?**

Colorado Revised Statutes allows restaurant customers to have pet dogs to be allowed in outdoor dining areas. If a restaurant decides to allow pet dogs, certain criteria must be met.

- Pet dogs are only allowed in outdoor dining areas.
- A separate entrance to the outdoor dining area must be available and used so that pet dogs do not pass through or enter the restaurant at any time.
- Pet dogs must be on a leash or in a pet carrier. The animal must be under control of the owner at all times.
- Pet dogs are not allowed on any seats, benches, chair or other furniture or fixtures.
- The outdoor dining area cannot be used for any food preparation other than filling a drink from a pitcher.
- All local rules and laws related to sidewalk, public nuisances, and sanitation must be followed.
- The person who brings a pet dog in an outdoor dining area is responsible for the behavior of that pet dog.
- A city or county may prohibit the presence of pet dogs in outdoor dining areas or may have additional requirements that must be followed. Please contact your local public health agency for more information:

<https://cdphe.colorado.gov/public-information/find-your-local-public-health-agency>

A copy of the *Colorado Retail Food Establishment Rules and Regulations* can be downloaded from our website at <https://cdphe.colorado.gov/retail-food/retail-food-resources>. Please contact the Colorado Department of Public Health and Environment, Division of Environmental Health and Sustainability, at (303) 692-3645 for additional information about this guidance and the regulations.