



SAMPLE SERVICE ANIMAL POLICY

**Drafted for the CITY OF HELENA
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Introduction

One of the key elements of the amended title II regulation requires municipalities, counties, and states to allow persons with disabilities to bring service animals into areas of parks and facilities where pedestrians are allowed. Found at section 35.136, this broad requirement became effective March 15, 2011.

Assessment Factors

The DOJ requires you to use these assessment factors for a service animal that is a dog.

(d) *Animal under handler's control.* A service animal shall be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (*e.g.*, voice control, signals, or other effective means).

The service animal may also be a miniature horse. In that event the assessment can include the following factors:

- o (2) *Assessment factors.* In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a specific facility, a public entity shall consider—
 - (i) The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
 - (ii) Whether the handler has sufficient control of the miniature horse;
 - (iii) Whether the miniature horse is housebroken; and

- (iv) Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

Inquiries are Limited to...

DOJ has anticipated that inquiries will arise. They are limited to the following excerpted section of the regulation.

(f) *Inquiries.*

A public entity shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal.

A public entity may ask if the animal is required because of a disability and what work or task the animal has been trained to perform.

A public entity shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.

Generally, a public entity may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (*e.g.*, the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

Model Policy Elements

City of Helena **Service Animal Policies** **Effective Month, xx, 201x**

I. Introduction

The City of Helena, through these policies, intends to address compliance with the Americans with Disabilities Act (the "ADA") and Section 504 of the 1973 Rehabilitation Act ("Section 504"). The following procedures implement this policy with regard to the use of service animals by persons with disabilities who are registered participants in City of Helena programs or authorized users of City of Helena parks and facilities, by City of Helena employees with disabilities, and by visitors with disabilities in City of Helena parks and facilities.

The purpose of these procedures is to ensure that participants and authorized users, employees, and visitors with disabilities who have service animals can participate in and benefit from City of Helena services, programs, and activities, and to ensure that the City of Helena does not discriminate on the basis of disability as identified in Titles I and II of the ADA.

II. Primary City of Helena Contacts

- A. **Participants and authorized users** may have a service animal accompany them in parks and facilities where they are authorized users as a reasonable modification. Persons with disabilities are invited to contact the City of Helena **ADA Coordinator** at _____ or _____.
- B. **Employees** may have a service animal as a workplace accommodation. Please contact the City of Helena Human Resources Department for information regarding this process.
- C. **Visitors** may be accompanied by a service animal when observing programs and activities, or enjoying City of Helena parks and facilities, as a reasonable modification. Persons with disabilities are invited to contact the City of Helena **ADA Coordinator** at _____ or _____ for any questions about this policy.

III. Definitions

- A. **Service Animal:** A **dog** or a **miniature horse** that has been individually trained to perform tasks for the benefit of a person with a disability. Exceptions may be made by the City of Helena on a case-by-case basis in accordance with the law. Tasks may include, but are not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to sounds, pulling a wheelchair, or retrieving dropped items.

Dogs or miniature horses that are not trained to perform tasks that mitigate the effects of a disability, including dogs or miniature horses that are used purely for emotional support, are not considered service animals and are not allowed at City of Helena parks and facilities premises, unless otherwise specifically permitted, such as at the dog park or equestrian facility.

- B. **Partner/Handler:** A person with a disability who uses a service animal as a reasonable modification, or a trainer.
- C. **Team:** A partner/handler and a service animal. The two work as a cohesive team in accomplishing the tasks of daily living.
- D. **Trainee:** A dog or a miniature horse being trained to become a service animal has the same rights as a fully trained service animal when accompanied by a partner/handler and identified as such.

IV. General Rule Regarding Service Animals

As a general rule, the City of Helena will modify policies, practices, and procedures to permit the use of a service animal by an individual with a disability.

V. Restrictions/Areas of Safety

The City of Helena may impose some restrictions on service animals for safety reasons. Restrictions are considered individually to determine if the animal poses a danger to others at City of Helena sites, or could be in danger itself, and to determine if other reasonable modifications can be provided to assure that the individual enjoys access to the park, facility, or program. Questions about restrictions on service animals should be directed to the contacts listed in Section II.

VI. Responsibilities of Individuals Using Service Animals

An individual with a service animal is responsible for the following:

- A. Responding truthfully to the limited and appropriate inquiries that may be made by employees regarding the service animal.
- B. Ensuring that the animal meets any local licensing requirements, including maintenance of required immunizations for that type of animal.
- C. Service animal dogs are required to wear a dog license tag at all times.
- D. Partners/handlers must ensure that the animal is in a harness or on a leash or tether at all times. Exceptions may be considered individually and require the demonstration of control of the service animal by the handler.
- E. Partners/handlers must ensure that the animal is under control and behaves properly at all times. The supervision of the animal is solely the responsibility of its partner/handler. If the animal's behavior results in a hygiene problem, or the animal acts in a threatening manner, the City of Helena may require the partner/handler to remove the service animal from the site.
- F. Partners/handlers must ensure that all local ordinances or other laws regarding cleaning up after the animal defecates are strictly adhered to. Individuals with disabilities who cannot clean up after their own animals are not required to pick up and dispose of feces; however, these individuals should use marked service animal toileting areas where provided.
- G. Partners/handlers must keep the service animal in good health. If the service animal becomes ill, the partner/handler must remove it from the area. If such action does not occur, City of Helena staff may require it to leave.
- H. The City of Helena may exclude a service animal from all parts of its property if a partner/handler fails to comply with these restrictions, and in failing to do so, fundamentally alters the nature of programs, services, or activity offered by the City of Helena.

- I. The City of Helena may exclude a service animal from all parts of its property if a partner/handler fails to control the behavior of a service animal and it poses a threat to the health or safety of others.

VII. Requirements for City of Helena Staff, Registrants, and Visitors

Members of the City of Helena staff, participants and authorized users, and visitors in City of Helena sites, are responsible for the following:

- A. Allow service animals to accompany the partner/handler at all times and anywhere at a site except where animals are specifically prohibited, such as at specific areas of a zoo.
- B. Refrain from distracting a service animal in any way. Do not pet, feed, or interact with the animal without the partner/handler's invitation to do so.
- C. Shall not separate a partner/handler from a service animal.
- D. The City of Helena may take disciplinary action against any individual who fails to abide by these guidelines.

VIII. Temporary Exclusion of Service Animals

A participant or authorized user, employee, or visitor may report a concern regarding a service animal to City of Helena staff.

- A. Temporary Exclusion of a Service Animal Used by a Participant or Visitor:
 1. In response to an immediate concern, City of Helena staff may determine that a service animal must be temporarily removed from parks, sites, or facilities. The employee authorized to make such decisions at that site, park, or facility shall notify the participant or visitor of this decision and that the incident will be reported immediately to the City of Helena ADA Coordinator. The employee shall then report the incident to the ADA Coordinator.
 2. The ADA Coordinator (or designee) will investigate all reported concerns and incidents where service animals have been temporarily removed from sites, parks, and facilities. The ADA Coordinator (or designee) will consult with appropriate City of Helena personnel and determine whether or not the animal should be excluded from sites, parks, and facilities for an extended period of time, or permanently. The ADA Coordinator (or designee) will notify the participant, authorized user, or visitor of his or her decision.
 3. If it is appropriate for the service animal to be excluded from sites, parks, or facilities permanently, the ADA Coordinator (or designee) will work with other City of Helena staff to ensure the participant, authorized user, or visitor receives appropriate reasonable modifications in place of the use of a service animal.

the animal is required because of a disability, and (2) what work or task the animal has been trained to perform.

XI. Emergency Situations

Emergency Responders (ERs) are trained to recognize service animals and to be aware that animals may try to communicate the need for help. Also, an animal may become disoriented from the smell of smoke in a fire or facility emergency, or from sirens, wind noise, or shaking and moving ground.

A partner/handler, service animal, and team may be confused in any stressful situation. ERs will remember that animals may be trying to be protective and, in its confusion, should not be considered harmful. ERs should make every effort to keep a service animal with its partner/handler; however, the ER's first effort should be toward the partner/handler, which may result in the animal being left behind in some emergency evacuation situations.