AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item:

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:

Please see the attached policy and associated resolution.

Fiscal Impact: N/A

Submitted by: Katherine Haase for John Cattles **Submitter's Email Address:** khaase@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok db 8/29/18

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 8/29/2018 Certificate of Insurance Required

Yes ○ No ◉

County Manager Review:

Comments:
This policy codifies and updates current policy.

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 8/29/2018

◉ Consent Agenda ○ Regular Agenda ○ Worksession Time Allotted: 0

Agenda Date: 9/4/2018

Revised April 2015

EXHIBIT A

Policy Name:	Allowances, Restrictions and Responsibilities Regarding Animals in County Facilities and on County Grounds			Policy Number:	5.2.3
Approval Authority:	Gunnison County Board of County Commissioners			Date of Adoption:	9/4/2018
Effective Date:	9/4/2018	Adoption Document:	Resolution #2018-31		
Review Date:	9/4/2023	Review Frequency:	Every five (5) years.	Policy Custodian:	Facilities & Grounds Department

PURPOSE

This policy identifies allowances, restrictions and responsibilities associated with the presence of animals in County facilities and on County grounds.

SCOPE

This policy applies to all Gunnison County employees and members of the public who utilize County facilities and grounds identified below. (Exceptions for the Fred R. Field Western Heritage Center and the Gunnison-Crested Butte Regional Airport are provided on page 3.)

DEFINITIONS

- Animal Owner. The person or persons, regardless of actual ownership, who accompanies an animal onto County grounds and/or into County facilities.
- County Facilities The allowances and prohibitions in this policy apply to the following County-owned or County-leased facilities:
    - Airport Administration Building; 519 Rio Grande Avenue; Gunnison, CO 81230
    - Gunnison – Crested Butte Regional Airport Terminal; 711 Rio Grande Avenue; Gunnison, CO 81230
    - Blackstock Government Center; 221 N. Wisconsin Street; Gunnison, CO 81230
    - Gunnison County Courthouse; 200 E. Virginia Avenue; Gunnison, CO 81230
    - Health & Human Services Facility; 220 N. Spruce Street; Gunnison, CO 81230
    - Public Safety and Detention Center; 510 W. Bidwell Avenue; Gunnison, CO 81230
    - Public Works Facility; 195 Basin Park Drive; Gunnison, CO 81230
    - Water Treatment Plant; 38130 W. Hwy 50; Gunnison, CO 81230
    - Ohio City Town Hall; 8503 County Road 76; Ohio City, CO 81237
    - The Marble Hub; 105 W. Main Street; Marble, CO 81623
    - Any other County building leased and used for office space by County employees
- County Grounds. Those grounds under the control of Gunnison County, whether such grounds are owned or leased. This includes properties owned by Gunnison County and managed by or leased to other persons or entities, as well as property owned by other persons or entities and leased to the County.
- Service Animals. Service Animals shall have the same meaning as set forth in the implementing regulations of Title II and Title III of the federal "Americans with Disabilities Act of 1990" ("ADA"), 42 U.S.C. Sec. 12101 *et seq.*, as amended. A Service Animal can be a dog or a miniature horse that has been individually trained to do work or perform tasks for an individual with a disability. The tasks performed by the Service Animal must be directly related to the person's disability.

Although Service Animals are often trained by an official training organization, an individual may train their own Service Animal and there are no requirements for such training nor are there any licensing or certification requirements. If an animal is not a dog or a miniature horse, it is not recognized as a Service Animal under either federal law, Colorado law, or this policy.

- Other Classifications:
    - Assistance Animals are animals that work, assist or perform tasks and services for the benefit of a person with a disability or provide emotional support that may improve the effects of a disability. No training is required for assistance animals. The term "assistance animal" generally encompasses both service animals and emotional support animals (often referred to as companion animals). Assistance animals are not Service Animals.
    - Therapy Animals are animals that are taken to hospitals, schools and other facilities to provide therapy to people there. Therapy animals are not Service Animals.
    - Pets is a catch-all classification and includes animals that any person, with or without a disability, may have if they do not fall into one of the other categories. Pets are not Service Animals.

POLICY STATEMENTS

General Restrictions and Allowances. The following applies to all animals as outlined, except that no animal, regardless of type, that has been deemed as vicious by the Gunnison County Sheriff's Office and/or the Gunnison County Court may be present in any County facility or on any County property at any time until deemed no longer vicious, in writing, by the Gunnison County Sheriff's Office and/or the Gunnison County Court.

1. County Facilities. No person or persons shall bring any animal into any of the County facilities at any time for any purpose EXCEPT a Service Animal. This does not preclude requests pursuant to the Americans with Disabilities Act for reasonable accommodations, which must be made on an individual case-by-case basis.

2. County Grounds. No owner or caretaker of any animal shall leave that animal unaccompanied for any length of time on any County grounds or on any property wherein a County facility is situated.

Service Animals. Service Animals are covered under Titles II and III of the ADA, which include requirements that local government entities provide reasonable accommodations to permit Service Animals to accompany people with disabilities in all areas where members of the public are allowed to go. Colorado state law covers Service Animals under the Colorado Anti-Discrimination Act. In Colorado, a Service Animal in training and its trainer enjoy the same privileges as a trained Service Animal.

1. Allowable Questions for a Person with a Service Animal. Two questions can be asked of an individual who brings a dog or miniature horse into County Facilities: 1) Is the animal required because of your disability?; and 2) What task does it perform? This means that the individual with a Service Animal cannot be asked a question such as what their disability is, nor can they be asked to show the animal performing the task. If the disability and the related need for the Service Animal is obvious—such as a seeing eye dog—the two questions cannot be asked. It is important to note that the individual cannot be required to provide any documentation proving that the animal is a Service Animal.

2. Excluding a Service Animal from a County Facility or County Grounds. A Service Animal can be denied access, but only based on actual behavior of the animal and not based on stereotypes or generalizations.
    a) Dogs. The County may deny access to a canine Service Animal if:
        - It is out of control and the owner cannot or does not take regain control;
        - It is not housebroken; or
        - It poses a threat to the health and safety of others that cannot be reduced to an acceptable level by making other reasonable modifications.

b) Miniature Horses. The County may deny access to a miniature horse Service Animal if:
- It is out of control and the owner cannot or does not take regain control;
- It is not housebroken;
- The facility cannot accommodate the animal's type, size and weight; or
- The presence of the animal compromises legitimate safety requirements necessary for safe operation of the facility.

3. Damages. The owner of a Service Animal shall be liable for any damage to persons, premises or facilities caused by the animal.

4. Control. Service Animals must be harnessed, leashed or tethered, unless the use of any of these devices: 1) Would interfere with the function of the Service Animal; and/or 2) Is prevented by the individual's particular disability, in which case the individual must maintain control of the animal through voice, signal or other effective controls.

5. Animal Identification/Documentation. Service Animals are not required to wear vests, ID tags and/or specific harnesses; and the presence of these types of appliances does not entitle the owner of an animal to any protections if the animal does not meet the definition of a Service Animal.

6. Animal Treatment. Staff and members of the public should not attempt to pet, interact or feed a Service Animal as this can distract the animal from its work. Staff and members of the public should not deliberately startle, tease or taunt a Service Animal, or separate it from the person it serves.

Exceptions. The below exceptions allow the presence of animals (Service Animals or otherwise) within County facilities and/or on County grounds in only those ways specified. In any of these instances, the owner of any animal is still responsible for the cost, care and supervision of their animal at all times, which includes keeping the animal under control, feeding/walking the animal, disposing of all animal waste, and complying with all other applicable local, state and/or federal laws.

1. Fred R. Field Western Heritage Center. Due to the nature of the Center and the many animal-related events that take place on the grounds and within the facilities, all animals associated with approved public and private events held at the Center are exempted from this policy.

2. Gunnison-Crested Butte Regional Airport. Any animal (other than a Service Animal) under the control of an airline passenger arriving at or departing from the Gunnison – Crested Butte Regional Airport shall be allowed in the terminal area only in a fully enclosed container.

COMPLIANCE

This policy shall be complied with in all respects, and the policy may be enforced by the County Manager or the designee of the County Manager, or City of Gunnison Code Enforcement. Enforcement mechanisms shall include but not be limited to those identified in Colo. Rev. Stat. §18-9-117, as amended.

Staff and/or members of the public are encouraged to contact local law enforcement officials if an unaccompanied animal, whether restrained, tethered or within a parked car, is found to be in distress in any County facility or on any County grounds. Further, staff and/or members of the public are encouraged to contact the City of Gunnison to report Gunnison Municipal Code violations.

Revisions to this policy may occur. However, when deemed necessary in order to fully protect the County's interests, the interest of the public, and to more fully protect the safety of the public, including employees governed by this policy, this policy may be changed without notice.

APPLICABLE LEGISLATION AND/OR RELATED REGULATIONS, POLICIES AND FORMS

- 2010 Americans with Disabilities Act (ADA), Title II (State and local government services) and Title III (public accommodations and commercial facilities)
- 28 C.F.R. § 35.136 and 136(a)
- 28 C.F.R. § 36.104

- 28 C.F.R. § 36.302 and 302(c)
- C.R.S. § 18-9-117 – Unlawful Conduct on Public Property
- C.R.S. § 18-13-107, 107.3 and 107.7 – Interference with Persons with Disabilities
- C.R.S. § 24-34-301 – Colorado Civil Rights Division Definitions
- C.R.S. § 24-34-601 – Discrimination in Places of Public Accommodation
- C.R.S. § 24-34-803, 803(1), 803(2) – Rights of Individuals with Service Animals
- C.R.S. § 24-34-804 – Service Animals, Violations, Penalties
- Colorado Code Regulations § 1010-2:1-202
- Guidance Concerning Service Animals in Air Transportation, 68 Fed. Reg. 24875 (May 9, 2003), available at https://www.transportation.gov/sites/dot.gov/files/docs/20030509_1pdf
- Gunnison County Policy 4.3.3 – Motor Pool and Personal Vehicle Policy
- Gunnison Municipal Code, Sections 5.40.010 and 5.40.050(A)(2), available at http://www.codepublishing.com/CO/Gunnison/#!/Gunnison05/Gunnison0540.html#5.40
- Rehabilitation Act of 1973, Section 504
- U.S. Dept. of Justice and U.S. Dept. of Housing Joint Statement: Service and Assistance Animals for People with Disabilities in Housing and HUD-Funded Programs (April 25, 2013)
- U.S. Dept. of Justice Frequently Asked Questions About Service Animals and the ADA (July 20, 2015)
- Gunnison County Resolution #2018-30; A Resolution Repealing and Rescinding Prior Resolutions and Ordinances Governing the Control and Licensing of Dogs, and Adopting New Rules and Regulations Governing the Control and Licensing of Dogs in Unincorporated Gunnison County, Colorado

BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO
RESOLUTION NO. 2018-___

A RESOLUTION ADOPTING THE ALLOWANCES, RESTRICTIONS AND RESPONSIBILITIES REGARDING ANIMALS IN COUNTY FACILITIES AND ON COUNTY GROUNDS POLICY

WHEREAS, Gunnison County has established a uniform policy format and an adoption and periodic review process to promote consistency and uniformity throughout the organization; and

WHEREAS, Gunnison County has not previously established any formal policies related to the rights and responsibilities associated with animals being present in County facilities or on County grounds; and

WHEREAS, the Board of County Commissioners of the County of Gunnison, Colorado intends to identify allowances for and prohibitions against the presence of animals in County facilities and on County grounds; and

WHEREAS, the Board intends that these allowances and prohibitions apply to all Gunnison County employees and members of the public; and

WHEREAS, C.R.S. §30-11-101(2), as amended, authorizes the Board to adopt and enforce resolutions regarding health, safety and welfare issues; and

WHEREAS, C.R.S. §18-9-117, as amended, permits the County to limit the presence of animals on County property whose presence may pose risks to sanitation, health or safety, whose presence may substantially interfere with the use or enjoyment of County property, or who may cause damage to county property, building and grounds; and

WHEREAS, C.R.S. §18-13-107.3 and 107.7, as amended, provides criminal penalties for the intentional misrepresentation of entitlement to a “Service Animal”; and

WHEREAS, C.R.S. §24-34-804, as amended, prohibits certain behaviors regarding “Service Animals”.

WHEREAS, the attached Allowances, Restrictions and Responsibilities Regarding Animals in County Facilities and on County Grounds Policy (Exhibit A) was created to reflect and formalize Gunnison County’s current practices, which conform to all relevant State and Federal guidelines and regulations.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado that:

1. The attached Allowances, Restrictions and Responsibilities Regarding Animals in County Facilities and on County Grounds Policy (Exhibit A) is adopted;
2. Effective immediately, the attached Allowances, Restrictions and Responsibilities Regarding Animals in County Facilities and on County Grounds Policy prevails over any related Gunnison County policies or guidance documents, whether formalized or not.

INTRODUCED by Commissioner _____, seconded by Commissioner _____, and adopted this 4th day of September, 2018.

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO

_____
Phil Chamberland, Chairperson

_____
Jonathan Houck, Commissioner

_____
John Messner, Commissioner

Attest:

_____
Deputy County Clerk