

# City of South Portland Service Animal Policy December 2016

## Purpose

The City of South Portland is committed to providing reasonable accommodations to persons with disabilities and fulfilling its obligations under State and federal law. This Policy governs the use of service animals by persons with disabilities while accessing City services, facilities and transit vehicles that are open to the public.

## Policy Statement

Persons with disabilities may be accompanied by working service animals while accessing City services, facilities and transit vehicles that are open to the public consistent with the provisions of this Policy.

## Definitions

**Disability under the Americans with Disabilities Act (ADA):** A physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or being regarded as having such an impairment.

**Service animal:** Any *dog* 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. A service animal is an aid that helps a person with a disability to access services and places of public accommodation, like a wheelchair or cane. Service animals are not pets.

Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the handler's disability. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

**Assistance animal:** An animal - not necessarily a dog - that is either determined necessary to mitigate the effects of a mental or physical disability by a physician, psychologist, physician assistant, nurse practitioner or licensed social worker or is individually trained to do work or perform tasks for the benefit of an individual with a physical or mental disability. This can include the types of externally-observable work service animals provide but also can include providing emotional support, well-being, comfort, or companionship related to an invisible disability (such as depression, anxiety, and certain phobias); they can - but do not always - have special training to perform tasks that assist people with disabilities. In places of public accommodation, an assistance animal does not qualify as a service animal UNLESS it is a dog, and otherwise meets the service animal definition.

## **Service Dogs in Training**

Service dogs in training are permitted in all public facilities on the same basis as working service animals, provided that the dog is being led or accompanied by a trainer for the purpose of training a dog. Only adult dogs (twelve months of age or older) are considered service dogs in training under this Policy. “Puppies in training” are not permitted in City buildings.

## **General Requirements**

Service animals must comply with all state and local licensure and vaccination requirements.

The care and supervision of a service animal is the responsibility of the individual who uses the animal’s service. The individual must maintain control of the service animal at all times. The service animal must be harnessed, leashed, or tethered while in public places unless these devices interfere with the service animal’s work or the person’s disability prevents use of these devices. In that case, the person must use voice, signal, or other effective means to maintain control of the service animal.

The individual using the animal’s service is responsible for ensuring the cleanup of all animal waste and for any damage caused by the animal. City staff may designate animal toileting areas.

## **Clarifying Animal Status**

Service animals are permitted in all public facilities of the City in accordance with this Policy. City employees should not question an individual about an accompanying service animal if the individual’s disability is readily apparent and the function of the accompanying animal is clear.

In the unusual circumstance when an inquiry must be made to determine whether an animal is a service animal, ***a City employee may only ask two questions:***

- (1) Is the animal required because of a disability?
- (2) What work or task has the animal been trained to perform?

These are the **ONLY** permissible inquiries that may be made.

City employees shall not ask any questions about the nature / extent of the individual’s disability.

Although a service animal may sometimes be identified by an identification card, harness, cape, or backpack, such identifiers are not required and should not be requested or demanded for any service animal in public facilities of the City. City employees shall not require documentation showing that the dog has been certified, trained, or licensed as a service animal.

If a City employee *suspects* that the service animal is not a “real” service animal, the employee must make the determination based on the limited information available, and responses to the only two questions they may ask. Allowing the person to retain the use of the service animal is always the safer choice.

An individual may have more than one service animal that are trained to provide different tasks. Regulations do not limit the number of service animals that may accompany a single individual.

### **Swimming Pool**

Public health rules prohibit dogs in public swimming pools, and the ADA does not override these rules. However, service animals are allowed on the pool deck and in other areas where the public is allowed to go.

### **Conflicting Disabilities**

Individuals with medical issues impacted by animals (*e.g.*, respiratory conditions, allergies or psychological conditions) should contact the Department Director for assistance.

### **Removal of Service Animals**

A service animal may be removed from public facilities, grounds or transit vehicles if either (1) the animal is disruptive or out of control (*e.g.*, barking, wandering, displaying aggressive behavior) and the handler does not take effective action to control it, or (2) the animal is not housebroken. Ill, unhygienic, and/or unsanitary service animals are not permitted in public facilities of the City.

A service animal may also be removed from City facilities and transit vehicles if either (1) it is a direct threat to the health and safety of others, or (2) it would result in substantial physical damage to the property of others, or (3) it substantially interferes with the reasonable enjoyment of the public accommodation, City services, facilities or transit vehicles.

### **Interacting with Service Animals**

Service animals work and perform tasks and are not pets. Accordingly, it is recommended that City employees and the community adhere to the following best practices when interacting with service animals:

- Do not touch or feed a service animal unless invited to do so;
- Do not deliberately distract or startle a service animal; and,
- Do not separate or attempt to separate a service animal from the individual using the animal's service.

### **Emergency Situations**

A handler/animal team may become stressed during emergency situations involving smoke, fire, sirens, or injury, and exhibit protective behavior. Be aware that service animals may try to communicate the need for help. In emergency situations, make every effort to avoid separating the handler from the service animal.

### **Assistance Animals that are Not Service Animals Not Allowed**

For public services and facilities of the City, assistance animals are not allowed, unless the animal is a dog and otherwise meets the service animal definition.

### **Policy Exceptions**

Individuals wishing to request a modification or exception to this policy as a reasonable accommodation should contact the Department Director.

### **Dispute Resolution Procedure**

Disputes or disagreements about a disability determination, appropriateness of an accommodation, service quality, or an animal restriction should first be raised with the Department Director. If the matter cannot be resolved, a dispute resolution may be submitted to the Human Resources Director. Individuals may file a written complaint with the Human Resources Director, South Portland City Hall, 25 Cottage Road, South Portland, ME 04106. If the matter remains unresolved after the decision of the Human Resources Director, a dispute resolution request may be submitted to the City Manager.

### **Resources**

- Service Animals in Places of Public Accommodation (MHRC)
- ADA 2010 Revised Requirements for Service Animals (U.S. Dep't of Justice)
- Frequently Asked Questions about Service Animals and the ADA (7/20/15) (U.S. Dep't of Justice)

*Adopted: December 8, 2016*

