

SERVICE ANIMAL POLICY

I. PURPOSE:

To develop a plan that accommodates individuals pursuant to the Americans with Disabilities Act (“ADA”) which requires the City of Nebraska City (“the City”) to make reasonable modifications to its policies, practices, or procedures to permit the use of a service animal by any individual with a disability.

The City is committed to compliance with federal and state laws prohibiting discrimination on the basis of disability. The City recognizes its legal obligation to accommodate service animals and makes every effort to pro-actively assess the accommodation needs.

Service animals are dogs (or miniature horses) that are individually trained to assist people with disabilities. The ADA definition of service animals is any “dog 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 an individual’s disability.

This policy requires the development of a plan to ensure that persons using service animals have an equal opportunity to participate in and benefit from City services. This policy specifically differentiates “service animals” from “therapy animals,” and describes types of service dogs, as well as sets behavioral guidelines.

II. RESPONSIBLE PERSONS:

All City staff.

III. DEFINITIONS:

A. **“Disability”** A person must meet the statutory definition of having a “disability,” under federal, state and/or local laws. These statutes recognize the following broad categories of disabilities:

- A sensory, mental, or physical impairment that substantially limits one or more major life activities (such as walking, seeing, hearing, speaking and breathing, working, learning, caring for one’s self, performing manual tasks, etc.).
- A sensory, mental or physical condition that is medically cognizable or diagnosable.

B. **“Handler”** A person with a service or therapy animal.

- C. **“Individualized Assessment”** An individualized assessment of a service animal must be made by a City employee prior to excluding the service animal and is based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids will mitigate the risk.
- D. **“Pet/Comfort Animal”** A domestic animal kept for pleasure or companionship.
- E. **“Service Animal”** Any dog (or miniature horse) individually trained to do work or perform tasks directly related to the disability that the individual has. A service animal meets the definition of a service animal regardless of the terminology used to describe it. A service animal is sometimes also called an assistance animal. (A non-inclusive list of more common types of service animals is below).
If there is a question about whether an animal is a service animal, contact the City Attorney.
- F. **“Therapy Animal”** An animal with good temperament and disposition, and who has reliable, predictable behavior, selected to visit people with disabilities or people who are experiencing the frailties of aging as a therapy tool. The animal may be incorporated as an integral part of a treatment process. A therapy animal has not been trained to assist an individual with a disability with work or tasks. The therapy animal does not accompany a person with a disability all the time, unlike a service animal that is always with its handler. Thus, a therapy animal is not a service animal.
- G. **“Service Animal in Training”** A dog or miniature horse, undergoing training to become a service animal. A trainee will be housebroken and fully socialized. To be fully socialized means the animal will not, except under rare occasions, bark, yip, growl or make disruptive noises; will have a good temperament and disposition; will not show fear; will not be upset or agitated when it sees another animal; and will not be aggressive. A trainee will be under the control of the handler, who may or may not have a disability. If the trainee begins to show improper behavior, the handler will act immediately to correct the animal or will remove the animal from the premises. There is no federal obligation to accommodate service animals that are still in training.

IV. **TYPES OF SERVICE ANIMALS:**

There are many different types of services animals. A non-inclusive list of some of the most common service animals is below:

- A. A **“guide service dog”** is trained to assist in navigation and other tasks for a person who is legally blind or has low vision.
- B. An **“alert service dog”** is trained to alert a person with significant hearing loss or who is deaf when a sound occurs, such as a knock on the door.

- C. A “*mobility service dog*” is trained to assist a person who has a mobility or health disability. Duties may include carrying, fetching, opening doors, ringing doorbells, activating elevator buttons, steadying a person while walking, helping a person up after a fall, etc. Mobility service dogs sometimes are called assistance animals.
- D. A “*seizure response service dog*” is trained to assist a person with a seizure disorder. The animal’s service depends on the person’s needs. The animal may go for help, or may stand guard over the person during a seizure. Some animals have learned to predict a seizure and warn the person.

V. **POLICY STATEMENT:**

Service animals will be permitted in all City owned and controlled areas open to the public in accordance with the ADA and other applicable federal and state laws and regulations prohibiting the discrimination on the basis of a person’s disability.

A service animal must be permitted to accompany a person with a disability almost everywhere.

Reasonable modifications must be made to policies, practices and procedures when necessary to accommodate persons with a service animal. Generally, this means the waiving of any no animal policy to permit the use of a service animal.

Service animals will be permitted to accompany an individual with a disability to all City owned and controlled areas where persons are normally allowed to go, except where the accommodation of the animal would result in a fundamental alteration of the services offered.

Service animals assist with many different tasks, including, but not limited to:

- assisting individuals who are blind or have low vision with navigation and other tasks,
- alerting individuals who are deaf or hard-of-hearing to the presence of people or sounds,
- providing non-violent protection or rescue work,
- pulling a wheelchair,
- assisting an individual during a seizure,
- alerting individuals to the presence of an allergen(s),
- providing assistance with balance and stability to individuals with mobility disabilities, and
- helping persons with behavioral health and neurological disabilities by reminding them to take medications or assisting them when they are symptomatic.

If an animal meets this definition, it is considered a service animal regardless of whether it has been licensed or certified by a state or local government or a training program.

VI. PROCEDURE:

A. Requirements for Staff

- Staff cannot ask about the nature of the person's disability, require (or request) any 'proof' of the animal's training (or any other certification) as any inquiry violates various nondiscrimination laws, including the ADA.
- If it is NOT readily apparent that the dog is a service animal staff must ONLY ask:
 1. **IF THE ANIMAL IS REQUIRED BECAUSE OF A DISABILITY? And**
 2. **WHAT WORK OR TASK HAS THE ANIMAL BEEN TRAINED TO PERFORM?**
- Staff CANNOT pet, play with or try to distract the service animal in any way.
- Staff CANNOT feed or care for the service animal, including toileting.
- Staff CANNOT charge or require an individual to pay a surcharge in order to accommodate a service animal.
- Staff should NEVER attempt to separate the service animal from the person with the qualified disability.
- Staff should ALWAYS remember that the service animal is a working animal and should make every effort to minimize activities that may startle the animal.

B. Requirements of Service Animals and Their Handlers

- **Leash:** The service animal must be on a leash, harness or tether at all times, unless either the handler is unable because of a disability to use the harness, leash or other tether; or the use of a harness, leash or tether would interfere with the service animal's safe, effective performance of the work or task which the service animal was trained to perform. The service animal must still remain under the control of the handler even if the service animal is not on a harness, leash or tether.
- **Under Control of Handler:** The handler must be in full control of the animal at all times. The care and supervision of a service animal is solely the responsibility of its handler. If a service animal must be separated from the handler to avoid a fundamental alteration or a threat to safety, it is the responsibility of the handler to arrange for the care and supervision of the animal during the period of separation.

- **Cleanup Rule:** The handler must always carry supplies sufficient to clean up the animal's feces. Marked service animal toileting areas should be used when provided.
- **Feeding and Other Care:** The handler must provide the service animal with food, water, and other necessary care or make other arrangements for the care of the service animal. *Under no circumstances shall the staff or volunteers care for the service animal.*

C. When a Service Animal Can Be Asked to Leave

A person with a disability may be asked to remove their service animal immediately from the premises only under the following circumstances:

1. if the service animal is out of control and the handler does not take effective action to keep it under control; or
2. the service animal is not house broken.

D. Individualized Assessment

Individuals with disabilities shall be permitted to be accompanied by their service animal in all areas where members of the public are permitted to go. However, it may be appropriate to perform an **individualized assessment** to exclude the service animal from areas where a sterile environment is critical to the services provided.

This assessment shall be based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence to ascertain:

- the nature, duration and severity of the risk;
- the probability that a potential injury will actually occur; and
- whether any reasonable modifications of policies, practices or procedures or the provision of auxiliary aids or services will mitigate the risk.

If it is determined, through an individualized assessment, that the service animal cannot be accommodated; staff shall, upon the request of the handler, arrange for visits between the service animal and the handler in an area of equivalent privacy and amenities.

E. Emergency Situations

In the event of an emergency, the emergency response team (ERT) that responds should be trained to recognize service animals and to be aware that the animal may be trying to communicate the need for help. The handler and/or animal may be confused from the stressful situation. The ERT should be aware that the animal is trying to be protective and, in its confusion, is not to be considered harmful.

The ERT should make every effort to keep the animal with its handler. However, the ERT's first effort is toward the handler; this may necessitate leaving an animal behind in certain emergency evacuation situations. When doing so is possible, the

ERT will transport the service animal to a safe location to await being reunited with its handler.

VII. COMPLAINT PROCESS:

It is the policy of the City not to discriminate on the basis of a person's disability. An internal grievance procedure has been developed to provide for the prompt and equitable resolution of complaints alleging any action prohibited by the Americans with Disabilities Act; or other applicable federal and state laws and regulations prohibiting the discrimination on the basis of a person's disability

Any person who believes he or she has been subjected to discrimination on the basis of his or her disability may file a grievance under this procedure. It is against the law for the City to retaliate against anyone who files a grievance or participates in the grievance process.

1. Complaints concerning accommodations of a service animal must be submitted to the City Attorney within 30 days of the date the person becomes aware of the alleged discriminatory act.
2. The complaint shall be in writing, containing the name and address of the person filing the complaint. The complaint must also state the problem or action alleged to be discriminatory and the remedy or relief sought.
3. The City Attorney shall conduct a thorough investigation providing an opportunity for all relevant evidence to be submitted as it relates to the alleged discriminatory act.
4. Every effort will be made to issue a written decision no later than 30 days after the complaint has been filed. All records of grievances will be maintained by the City Attorney.
5. The person filing the grievance may appeal the initial decision by writing to the City Council within 15 days of receiving the initial decision. The City Council will make every effort to issue a final written decision to the appeal within 30 days of the appeal being filed.

The filing of a complaint of discrimination based on a person's disability does not prevent the filing of a complaint with the U.S. Department of Health and Human Services, Office for Civil Rights, electronically through the Office of Civil Rights Complaint Portal, available at <https://ocrportal.hhs.gov/ocr/portal/lobby.jsf>, or by mail or phone at:

U.S. Department of Health and Human Services
200 Independence Avenue, SW
Room 509F, HHH Building
Washington, DC 20201
1-800-368-1019, 800-537-7697 (TDD)

Complaint forms are available at: <http://www.hhs.gov/ocr/office/file/index.html>