

**Beacon Falls Board of Selectmen
10 Maple Avenue
Beacon Falls, CT 06403**



**BEACON FALLS BOARD OF SELECTMEN
Monthly Meeting
December 12, 2016
MINUTES
(Subject to Revision)**

1. Call to Order/Pledge to the Flag

First Selectman Chris Bielik called the meeting to order at 7:30 P.M.

Members Present: First Selectman Chris Bielik, Selectman Peter Betkoski, and Selectman Mike Krenesky

Others present: Sue Dowdell, Library Director; Tom Pratt and Brian Ploss, Board of Finance; Chief Jim Trzaski and Ambulance Coordinator Kenny George, Beacon Hose Co. 1; Jeremy Rodorigo; Mary Ellen Fernandes; Luke Marshall, Citizens News; and 7 members of the public.

2. Comments from the Public

Sam & Katie Dalton, Highland Avenue, was present to inform the Selectmen of the conditions of his driveway and walkway after the construction on Highland Avenue. He noted that the walkway is not finished, the curb is blocking the walkway, as well as a ditch in front of the walkway. S. Dalton is concerned for the safety of everyone. S. Dalton also noted that the slope is too steep and one of their vehicles bottoms out when exiting their driveway. C. Bielik indicated that there is an update on the construction project later in the agenda and will address this at that time.

Ken & Dawn Dokla, Timber Ridge, was present to question the Selectmen on the road ownership of Timber Ridge – when will the developer turn the road over to the town. C. Bielik indicated that the developer has not approached the town on this to date. K. Dokla also inquired on the pump at the end of Oakwood, noting that the water pressure on his road dribbles. K. Dokla asked for the town to get involved since Aquarion indicates that it's the developer and the developers indicate that it's Aquarion. C. Bielik indicated that the situation is outside the control and the responsibility of the town – it's the developer and the utility company.

K. Dokla questioned TV and cable line being pulled into the road so the homeowners could tie into those since they are not getting any answers from the owners/developer. C. Bielik indicated that they should attend the next Planning & Zoning meeting.

K. Dokla noted that there are no fire tanks and no fire hydrants on the road. C. Bielik indicated that they should attend the next P & Z meeting. S. Orłowski, Timber Ridge, indicated that he is also having the same problems on his property.

Dino Verrelli, Project Purple, was present to inquire on his request to have a crosswalk installed from the post office to the plaza where his business is located. A letter was sent back in May/June 2016 to the Selectmen requesting the crosswalk. His business uses the post office quite often and had spoken to Eddie Rodrigues to have this put on an agenda. C. Bielik indicated that this request was discussed at a Selectmen meeting and apologized that he was not contacted in regards to the decision. C. Bielik noted that if a crosswalk was installed where D. Verrelli suggested, there would be no parking on the street for the post office patrons. The sight lines would be compromised as well and there would be a significant impact. C. Bielik noted that they will do some research and will notice him when a meeting is scheduled regarding this.

D. Verrelli questioned the lack of 24-hour police coverage in the town. He noted his decision to have his business in this town and had the alarm in his office go off on 09/02/2016. The response time was approximately 39 minutes for the police to arrive at the office. D. Verrelli noted that the state trooper was in Shelton on Rt. 8. C. Bielik indicated that he could have this topic added to the January agenda and that there is a complex answer to this topic.

Jim Trzaski, Burton Road, wanted to thank Stacey Tiano for her good job in walking around town and picking up garbage. J. Trzaski noted that she walks all over town and picks up trash, and she wants nothing for this.

Mary Ellen Fernandes, South Circle, was present to discuss the traffic circle that was taken out on South Circle. She noted that two of the issues that were factors to having the traffic circle taken out was plowing and a town liability since the engineer's plan removed the traffic circle. ME Fernandes indicated that she was upset to see a traffic circle installed at Highland Avenue and Burton Road. There was never one there previously and now there is one; and why is that one not a liability. ME Fernandes would like the stop sign at South Circle revisited since no one is adhering to the new stop sign and asked if the residents were notified of this new stop sign. C. Bielik indicated that he will look into this.

Brian Ploss, Skokorat Road, noted the issue of the drains on Burton Road, with having drains on one side and not on the other side. B. Ploss indicated that the rain is causing drainage problems. P. Betkoski indicated that this was addressed.

B. Ploss noted that there is should be some help for people with disabilities with tax breaks. B. Ploss noted that there are not retroactive and there should be something for people filing for disabilities. After a brief discussion, C. Bielik indicated that there are state statutes that must be adhere to and would have to be changed at a higher level than the town for the town do to something.

C. Bielik asked three times and there were no further comments from the public at this time.

C. Bielik indicated that he would entertain a motion to rearrange the agenda to accommodate the people in attendance for tonight's meeting.

Motion to change Agenda Item 17b – Naugatuck River Greenway/Streetscape Extension - Discussion to new Agenda Item 3, and then and move the other agenda item up one letter: **Betkoski/Krenesky; no discussion; all ayes.**

3. Naugatuck River Greenway/Streetscape Extension - Discussion

Aaron Budris, Naugatuck Valley COG, was present to discuss the Naugatuck River Greenway/Streetscape Extension. A. Budris noted that Beacon Falls submitted paperwork to have work done on the streetscape – extending the Greenway to Riverbend Park. Drawings were presented and reviewed by the Selectmen.

After a brief discussion, A. Budris indicated that the program is 80/20 and the cost is approximately \$3,000,000. Since Beacon Falls is a small urban area, the town would have to split the money with the Danbury area. The town of Beacon Falls would be responsibility for approximately \$620,000. A. Budris noted that the grant is very competitive. M. Krenesky mentioned the Capital Projects that the town is considering and should prioritize these projects.

C. Bielik indicated that he would entertain a motion to rearrange the agenda to accommodate the people in attendance for tonight's meeting.

Motion to change Agenda Item 17a – Streetscape Lighting – Rick Cherhoniak to new Agenda Item 4: **Betkoski/Krenesky; no discussion; all ayes.**

4. Streetscape Lighting – Rick Cherhoniak

Rick Cherhoniak was present to discuss the LED lighting that was authorized at last month's Board of Selectmen meeting. R. Cherhoniak discussed the difference of the two options of lighting and suggested going to the 4,000K, which is more of a down light.

After a brief discussion, C. Bielik indicated that he will entertain a motion to execute the waiver that is necessary for the installation of the 4,000K LED lights.

Motion to execute the waiver that is necessary for the installation of the 4,000K LED lights from North Main Street at Church Street down to South Main Street at Rt. 42: Krenesky/Betkoski; no discussion; all ayes.

5. Read and Approve Minutes from Previous Meetings

The three members reviewed the two minutes from the meetings held in November 2016 – the regular monthly meeting held on 11/14/2016 and the special meeting held on 11/14/2016.

Motion to accept the two minutes from the meetings held in November 2016: Betkoski/Krenesky; no discussion; all ayes.

6. Resident Trooper/Police Report

C. Bielik noted that the report was prepared by Humberto Henriques, not Wayne Petralito, as noted on the report.

Motion to accept the Police Report, with the noted change, by the Resident Trooper for tonight's meeting: Krenesky/Betkoski; no discussion; all ayes.

7. Wastewater Treatment Plant Report

Motion to accept the report as submitted by the Wastewater Treatment Plant for tonight's meeting: Krenesky/Betkoski; no discussion; all ayes.

8. Report of Public Works

Motion to accept the report as submitted by Public Works for tonight's meeting: Betkoski/Krenesky; no further discussion; all ayes.

9. Report of the Fire Marshal

Motion to accept the report as submitted by the Fire Marshall for tonight's meeting: Krenesky/Betkoski; no further discussion; all ayes.

Chief Trzaski updated the Selectmen on Pioneer Gas and noted that the Fire Dept. is happy with all the safety features that have been installed at the facility.

10. Report of the Finance Manager

Motion to accept the report as submitted by the Finance Manager for tonight's meeting and forward to the Board of Finance for their next scheduled meeting: **Krenesky/Betkoski; no further discussion; all ayes.**

11. Report of the Tax Collector

Motions to accept the monthly report as submitted by the Tax Collector for tonight's meeting and forward to the Board of Finance for their next scheduled meeting: **Betkoski/Krenesky; no discussion; all ayes.**

12. Report of the Town Treasurer

Motions to accept the monthly report as submitted by the Town Treasurer for tonight's meeting and forward to the Board of Finance for their next scheduled meeting: **Krenesky/Betkoski; no discussion; all ayes.**

13. Report of the Town Clerk

Motions to accept the monthly report as submitted by the Town Clerk for tonight's meeting and forward to the Board of Finance for their next scheduled meeting: **Krenesky/Betkoski; no discussion; all ayes.**

14. Report of the Library

Motion to accept the report as submitted by the Library Director for tonight's meeting: **Krenesky/Betkoski; no discussion; all ayes.**

S. Dowdell noted that a service call has been placed for the crackling noise coming from the speaker in the ceiling of the Assembly Room. S. Dowdell indicated that she will be proposing a liaison for the Community Media Building Committee to the Library Board of Trustees at the next board meeting.

15. Report of the Fire Department

Motion to accept the report as submitted by the Fire Department for tonight's meeting: **Betkoski/Krenesky; no discussion; all ayes.**

Chief Trzaski noted that the utility truck is up and running. Chief Trzaski also noted the tremendous job done at the structure fire on Pines Bridge Road. Chief Trzaski would like to recommend the employee benefits for the administrative assistant and would like to discuss this with the Selectmen. C. Bielik indicated that he would entertain a motion to add this discussion to the agenda as Agenda Item 18d. Discussion of Benefits for Beacon Hose Co. 1 Administrative Assistant.

Motion to add Agenda Item 18d. Discussion of Benefits for the Beacon Hose Co. 1 full time Administrative Assistant: **Krenesky/Betkoski; no discussion; all ayes.**

16. Any Other Reports

a. Report of the Custodian

Motion to accept the report as submitted by the Custodian for tonight's meeting: **Betkoski/Krenesky; no discussion; all ayes.**

b. Report of the Town Nurse

There was no report submitted by the Town Nurse for tonight's meeting. The next quarterly report is not due until 12/31/2016.

c. Report of the Animal Control Officer

Motion to accept the report as submitted by the Animal Control Officer for tonight's meeting: **Krenesky/Betkoski; no discussion; all ayes.**

17. Correspondence

1. There were two invoices from the Board's clerk that were submitted for payment – one dated 11/14/2016 in the amount of \$91.25 and one dated 11/14/2016 in the amount of \$46.25.

Motion to approve and pay the clerk for the two invoices as submitted for tonight's meeting for a total of \$137.50: **Betkoski/Krenesky; no discussion; all ayes.**

2. There were several emails over the past couple of weeks regarding the drought conditions in the state. The Governor announced that the state was under a drought advisory and a Drought Coordinator needs to be appointed. Tanya Gutierro indicated that she would be willing to fill that position.

3. An email from Mary Ellen Fernandes was received indicating that she was interested in filling the position of Alternate on the Community Media Building Committee.
4. C. Bielik had several conversations with Arlene Brumer regarding her interest in filling the position of Member on the Community Media Building Committee.
5. There was an email from the clerk of the EDC expressing the EDC's thanks to the Board of Selectmen for keeping on top of the blight conditions at 27 Railroad Avenue.
6. There was a long string of emails over the past week from Brian Ploss in regards to establishments being made aware that service dogs are allowed by federal laws into eating and food-handling establishments. B. Ploss supplied a list of questions and answers from the ADA regarding service animals. The list was shared with the Police Force and will be posted on the town's website. C. Bielik indicated that he will provide a copy for the clerk to have attached to the minutes from the tonight's meeting. C. Bielik will be training town hall employees on the laws of service animals.

18. Old Business

a. Wastewater Treatment Plant Study – Costs - Discussion

C. Bielik indicated that he will be having a follow-up meeting with Dave Prickett sometime after the first of the new year.

b. Highland Avenue Construction Project - Update

C. Bielik indicated that he spoke with the Town Engineer in regards to the concerns that the residents have. C. Bielik noted that part of the hold-up is due to the concrete vendor and the vendor wants to visit the site once to address everything at that time. In regards to the telephone poles, Eversource needs to relocate the two poles and have tried twice.

c. Ordinance Relating to Taxes/Issuance of Permits - Discussion

C. Bielik indicated that there is no update at this time and asked to keep this on the agenda for the next monthly meeting.

d. Discussion of Benefits for the Beacon Hose Co. 1 full time Administrative Assistant

Chief Trzaski noted that he disagrees with holding this discussion during the public session of the meeting and not under Executive Session.

Chief Trzaski indicated that a letter was generated and the Board of Selectmen discussed the possibility of providing benefits to the full-time position. After a brief discussion, C. Bielik indicated that they will discuss this topic with the Board of Finance to let them know what the Selectmen are thinking.

After further discussion, C. Bielik indicated that he would entertain a motion to move forward and adopt the Beacon Hose Co. 1 Administrative Assistant Health Insurance Proposal as presented.

Motion to move forward and adopt the Beacon Hose Co. 1 Administrative Assistant Health Insurance Proposal as presented: **Betkoski/Krenesky**; discussion was by M. Krenesky asking that the motion being made tonight is being adding to the contract and C. Bielik responded yes; **all ayes.**

C. Bielik indicated that he will entertain a motion to add under Old Business, Agenda Item 18e – Community Media Building Committee Update.

Motion to add under Old Business, Agenda Item 18e Community Media Building Committee Update: **Betkoski/Krenesky**; no discussion; **all ayes.**

e. Community Media Building Committee Update

M. Krenesky indicated that Building Committee held a meeting last week and went over their mission. M. Krenesky also indicated that a site visit was done and a schedule of the 2017 meetings was done. At the next meeting, a Chairman will be appointed for the committee.

19. New Business

a. Small Cities Loan Program – Discussion and Possible Action

C. Bielik indicated that 13 families have benefited from the Small Cities Loan Program and is making a positive difference in town for families in need. C. Bielik also indicated that there are 13 more individuals that have already submitted an application and ready for when funding is available or an application under review.

C. Bielik asked if the Selectmen are will be to pursue this program again for the town. After a brief discussion, a motion was made to pursue the program again.

Motion to contact the Small Cities Loan Program to express the town's interest in the program again: **Betkoski/Krenesky; no discussion; all ayes.**

20. Appointments

a. **Community Media Center Building Committee – Member – Arlene Brumer**

Motion to appoint Arlene Brumer as a member to the Community Media Center Building Committee: **Betkoski/Krenesky; no discussion; all ayes.**

b. **Community Media Center Building Committee – Alternate – Mary Ellen Fernandes**

Motion to appoint Mary Ellen Fernandes as an Alternate to the Community Media Center Building Committee: **Betkoski/Krenesky; no discussion; all ayes.**

c. **Land Use/Open Space – Joseph Fitzpatrick – Term Expired 11/08/2016**

The appointment to this Committee will be postpone until the Chairman speaks with his Board and finds someone interested in the vacancy.

d. **Inland Wetlands – to Replace Jamie Lillis – Term Expires 11/07/2017**

The appointment to this Committee will be postpone until the Chairman speaks with his Board and finds someone interested in the vacancy.

e. **Town Drought Coordinator – Tanya Gutierro**

Motion to appoint Tanya Gutierro as the Town Drought Coordinator: **Krenesky/Betkoski; no discussion; all ayes.**

21. Budget Transfer Request

C. Bielik indicated that there are two budget transfer requests to be addressed tonight.

Motion to approve the two budget transfer requests as follows and pass it along to the Board of Finance:

1. From Line Item 10.90.90.2500 in the amount of \$3,000.00 to Line Item 10.90.15.1280 – in the amount of \$3,000.00.

Krenesky/Betkoski; no discussion; all ayes.

2. From Line Item 10.90.90.25 in the amount of \$11,288.00 Line Item 10.90.03.1140 – in the amount of \$11,288.00.

Krenesky/Betkoski; no discussion; all ayes.

22. Public Comment

Sue Dowdell, Wolfe Avenue, asked the Selectmen for an update on the Assembly Room renovations and C. Bielik indicated that he will get back to her. S. Dowdell noted that EDC is concerned with the area on Main Street from Rt. 42 down to Riverbend Park and would like to see more being done especially with parking. S. Dowdell also noted that a gentleman that viewed the Lewis House on Wolfe Avenue and indicated that there is asbestos in the building. M. Krenesky noted that a concern was raised about asbestos in the building and that no one should be entering the building. It was noted that the fire department uses the building for training. C. Bielik indicated that a report has not been received regarding asbestos and will get with the Fire Marshall to see if they could make a recommendation in getting testing done.

Mary Ellen Fernandes, South Circle, asked if leaves could still be brought to Public Works and C. Bielik indicated that he will get back with that information.

C. Bielik asked three times if there were any further comments and there were none at this time.

23. Executive Session

The Selectmen did not enter into Executive Session tonight.

24. Adjournment

With no further business to discuss, C. Bielik asked for a motion to adjourn tonight's meeting.

Motion to adjourn tonight's Board of Selectmen meeting at 9:43 P.M.:
Betkoski/Krenesky; no discussion; all ayes.

The next regular monthly meeting for the Board of Selectmen is scheduled for Monday, January 9, 2017, starting at 7:30 PM in the Town Hall Assembly Room.

Respectfully submitted,

Marla Scirpo
Clerk, Board of Selectmen

DRAFT

U.S. Department of Justice
Civil Rights Division
Disability Rights Section



[Link to PDF Version](#)

Frequently Asked Questions about Service Animals and the ADA

Many people with disabilities use a service animal in order to fully participate in everyday life. Dogs can be trained to perform many important tasks to assist people with disabilities, such as providing stability for a person who has difficulty walking, picking up items for a person who uses a wheelchair, preventing a child with autism from wandering away, or alerting a person who has hearing loss when someone is approaching from behind.

The Department of Justice continues to receive many questions about how the Americans with Disabilities Act (ADA) applies to service animals. The ADA requires State and local government agencies, businesses, and non-profit organizations (covered entities) that provide goods or services to the public to make "reasonable modifications" in their policies, practices, or procedures when necessary to accommodate people with disabilities. The service animal rules fall under this general principle. Accordingly, entities that have a "no pets" policy generally must modify the policy to allow service animals into their facilities. This publication provides guidance on the ADA's service animal provisions and should be read in conjunction with the publication [ADA Revised Requirements: Service Animals](#).

[Definition](#) | [General Rules](#) | [Certification and Registration](#)
[Breeds](#) | [Exclusion of Service Animals](#) | [Miscellaneous](#) | [Resources](#)

DEFINITION OF A SERVICE ANIMAL

Q1. What is a service animal?

A. Under the ADA, a service animal is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person's disability.

Q2. What does "do work or perform tasks" mean?

A. The dog must be trained to take a specific action when needed to assist the person with a disability. For example, a person with diabetes may have a dog that is trained to alert him when his blood sugar reaches high or low levels. A person with depression may have a dog that is trained to remind her to take her medication. Or, a person who has epilepsy may have a dog that is trained to detect the onset of a seizure and then help the person remain safe during the seizure.

Q3. Are emotional support, therapy, comfort, or companion animals considered service animals under the ADA?

A. No. These terms are used to describe animals that provide comfort just by being with a person. Because they have not been trained to perform a specific job or task, they do not qualify as service animals under the ADA. However, some State or local governments have laws that allow people to take emotional support animals into public places. You may check with your State and local government agencies to find out about these laws.

Q4. If someone's dog calms them when having an anxiety attack, does this qualify it as a service animal?

A. It depends. The ADA makes a distinction between psychiatric service animals and emotional support animals. If the dog has been trained to sense that an anxiety attack is about to happen and take a specific action to help avoid the attack or lessen its impact, that would qualify as a service animal. However, if the dog's mere presence provides comfort, that would not be considered a service animal under the ADA.

Q5. Does the ADA require service animals to be professionally trained?

A. No. People with disabilities have the right to train the dog themselves and are not required to use a professional service dog training program.

Q6. Are service-animals-in-training considered service animals under the ADA?

A. No. Under the ADA, the dog must already be trained before it can be taken into public places. However, some State or local laws cover animals that are still in training.

GENERAL RULES

Q7. What questions can a covered entity's employees ask to determine if a dog is a service animal?

A. In situations where it is not obvious that the dog is a service animal, staff may ask only two specific questions: (1) is the dog a service animal required because of a disability? and (2) what work or task has the dog been trained to perform? Staff are not allowed to request any documentation for the dog, require that the dog demonstrate its task, or inquire about the nature of the person's disability.

Q8. Do service animals have to wear a vest or patch or special harness identifying them as service animals?

A. No. The ADA does not require service animals to wear a vest, ID tag, or specific harness.

Q9. Who is responsible for the care and supervision of a service animal?

A. The handler is responsible for caring for and supervising the service animal, which includes toileting, feeding, and grooming and veterinary care. Covered entities are not obligated to supervise or otherwise care for a service animal.

Q10. Can a person bring a service animal with them as they go through a salad bar or other self-service food lines?

A. Yes. Service animals must be allowed to accompany their handlers to and through self-service food lines. Similarly, service animals may not be prohibited from communal food preparation areas, such as are commonly found in shelters or dormitories.

Q11. Can hotels assign designated rooms for guests with service animals, out of consideration for other guests?

A. No. A guest with a disability who uses a service animal must be provided the same opportunity to reserve any available room at the hotel as other guests without disabilities. They may not be restricted to "pet-friendly" rooms.

Q12. Can hotels charge a cleaning fee for guests who have service animals?

No. Hotels are not permitted to charge guests for cleaning the hair or dander shed by a service animal. However, if a guest's service animal causes damages to a guest room, a hotel is permitted to charge the same fee for damages as charged to other guests.

Q13. Can people bring more than one service animal into a public place?

A. Generally, yes. Some people with disabilities may use more than one service animal to perform different tasks. For example, a person who has a visual disability and a seizure disorder may use one service animal to assist with way-finding and another that is trained as a seizure alert dog. Other people may need two service animals for the same task, such as a person who needs two dogs to assist him or her with stability when walking. Staff may ask the two permissible questions (See Question 7) about each of the dogs. If both dogs can be accommodated, both should be allowed in. In some circumstances, however, it may not be possible to accommodate more than one service animal. For example, in a crowded small restaurant, only one dog may be able to fit under the table. The only other place for the second dog would be in the aisle, which would block the space between tables. In this case, staff may request that one of the dogs be left outside.

Q14. Does a hospital have to allow an in-patient with a disability to keep a service animal in his or her room?

A. Generally, yes. Service animals must be allowed in patient rooms and anywhere else in the hospital the public and patients are allowed to go. They cannot be excluded on the grounds that staff can provide the same services.

Q15. What happens if a patient who uses a service animal is admitted to the hospital and is unable to care for or supervise their animal?

A. If the patient is not able to care for the service animal, the patient can make arrangements for a family

member or friend to come to the hospital to provide these services, as it is always preferable that the service animal and its handler not be separated, or to keep the dog during the hospitalization. If the patient is unable to care for the dog and is unable to arrange for someone else to care for the dog, the hospital may place the dog in a boarding facility until the patient is released, or make other appropriate arrangements. However, the hospital must give the patient the opportunity to make arrangements for the dog's care before taking such steps.

Q16. Must a service animal be allowed to ride in an ambulance with its handler?

A. Generally, yes. However, if the space in the ambulance is crowded and the dog's presence would interfere with the emergency medical staff's ability to treat the patient, staff should make other arrangements to have the dog transported to the hospital.

CERTIFICATION AND REGISTRATION

Q17. Does the ADA require that service animals be certified as service animals?

A. No. Covered entities may not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, as a condition for entry.

There are individuals and organizations that sell service animal certification or registration documents online. These documents do not convey any rights under the ADA and the Department of Justice does not recognize them as proof that the dog is a service animal.

Q18. My city requires all dogs to be vaccinated. Does this apply to my service animal?

A. Yes. Individuals who have service animals are not exempt from local animal control or public health requirements.

Q19. My city requires all dogs to be registered and licensed. Does this apply to my service animal?

A. Yes. Service animals are subject to local dog licensing and registration requirements.

Q20. My city requires me to register my dog as a service animal. Is this legal under the ADA?

A. No. Mandatory registration of service animals is not permissible under the ADA. However, as stated above, service animals are subject to the same licensing and vaccination rules that are applied to all dogs.

Q21. My city / college offers a voluntary registry program for people with disabilities who use service animals and provides a special tag identifying the dogs as service animals. Is this legal under the ADA?

A. Yes. Colleges and other entities, such as local governments, may offer voluntary registries. Many communities maintain a voluntary registry that serves a public purpose, for example, to ensure that emergency staff know to look for service animals during an emergency evacuation process. Some offer a benefit, such as a reduced dog license fee, for individuals who register their service animals. Registries for purposes like this are permitted under the ADA. An entity may not, however, require that a dog be registered as a service animal as a condition of being permitted in public places. This would be a violation of the ADA.

BREEDS

Q22. Can service animals be any breed of dog?

A. Yes. The ADA does not restrict the type of dog breeds that can be service animals.

Q23. Can individuals with disabilities be refused access to a facility based solely on the breed of their service animal?

A. No. A service animal may not be excluded based on assumptions or stereotypes about the animal's breed or how the animal might behave. However, if a particular service animal behaves in a way that

poses a direct threat to the health or safety of others, has a history of such behavior, or is not under the control of the handler, that animal may be excluded. If an animal is excluded for such reasons, staff must still offer their goods or services to the person without the animal present.

Q24. If a municipality has an ordinance that bans certain dog breeds, does the ban apply to service animals?

A. No. Municipalities that prohibit specific breeds of dogs must make an exception for a service animal of a prohibited breed, unless the dog poses a direct threat to the health or safety of others. Under the "direct threat" provisions of the ADA, local jurisdictions need to determine, on a case-by-case basis, whether a particular service animal can be excluded based on that particular animal's actual behavior or history, but they may not exclude a service animal because of fears or generalizations about how an animal or breed might behave. It is important to note that breed restrictions differ significantly from jurisdiction to jurisdiction. In fact, some jurisdictions have no breed restrictions.

EXCLUSION OF SERVICE ANIMALS

Q25. When can service animals be excluded?

A. The ADA does not require covered entities to modify policies, practices, or procedures if it would "fundamentally alter" the nature of the goods, services, programs, or activities provided to the public. Nor does it overrule legitimate safety requirements. If admitting service animals would fundamentally alter the nature of a service or program, service animals may be prohibited. In addition, if a particular service animal is out of control and the handler does not take effective action to control it, or if it is not housebroken, that animal may be excluded.

Q26. When might a service dog's presence fundamentally alter the nature of a service or program provided to the public?

A. In most settings, the presence of a service animal will not result in a fundamental alteration. However, there are some exceptions. For example, at a boarding school, service animals could be restricted from a specific area of a dormitory reserved specifically for students with allergies to dog dander. At a zoo, service animals can be restricted from areas where the animals on display are the natural prey or natural predators of dogs, where the presence of a dog would be disruptive, causing the displayed animals to behave aggressively or become agitated. They cannot be restricted from other areas of the zoo.

Q27. What does under control mean? Do service animals have to be on a leash? Do they have to be quiet and not bark?

A. The ADA requires that service animals be under the control of the handler at all times. In most instances, the handler will be the individual with a disability or a third party who accompanies the individual with a disability. In the school (K-12) context and in similar settings, the school or similar entity may need to provide some assistance to enable a particular student to handle his or her service animal. 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 animal. For example, a person who uses a wheelchair may use a long, retractable leash to allow her service animal to pick up or retrieve items. She may not allow the dog to wander away from her and must maintain control of the dog, even if it is retrieving an item at a distance from her. Or, a returning veteran who has PTSD and has great difficulty entering unfamiliar spaces may have a dog that is trained to enter a space, check to see that no threats are there, and come back and signal that it is safe to enter. The dog must be off leash to do its job, but may be leashed at other times. Under control also means that a service animal should not be allowed to bark repeatedly in a lecture hall, theater, library, or other quiet place. However, if a dog barks just once, or barks because someone has provoked it, this would not mean that the dog is out of control.

Q28. What can my staff do when a service animal is being disruptive?

A. If a service animal is out of control and the handler does not take effective action to control it, staff may request that the animal be removed from the premises.

Q29. Are hotel guests allowed to leave their service animals in their hotel room when they leave the hotel?

A. No, the dog must be under the handler's control at all times.

Q30. What happens if a person thinks a covered entity's staff has discriminated against him or her?

A. Individuals who believe that they have been illegally denied access or service because they use service animals may file a complaint with the U.S. Department of Justice. Individuals also have the right

to file a private lawsuit in Federal court charging the entity with discrimination under the ADA.

MISCELLANEOUS

Q31. Are stores required to allow service animals to be placed in a shopping cart?

A. Generally, the dog must stay on the floor, or the person must carry the dog. For example, if a person with diabetes has a glucose alert dog, he may carry the dog in a chest pack so it can be close to his face to allow the dog to smell his breath to alert him of a change in glucose levels.

Q32. Are restaurants, bars, and other places that serve food or drink required to allow service animals to be seated on chairs or allow the animal to be fed at the table?

A. No. Seating, food, and drink are provided for customer use only. The ADA gives a person with a disability the right to be accompanied by his or her service animal, but covered entities are not required to allow an animal to sit or be fed at the table.

Q33. Are gyms, fitness centers, hotels, or municipalities that have swimming pools required to allow a service animal in the pool with its handler?

A. No. The ADA does not override public health rules that prohibit dogs in swimming pools. However, service animals must be allowed on the pool deck and in other areas where the public is allowed to go.

Q34. Are churches, temples, synagogues, mosques, and other places of worship required to allow individuals to bring their service animals into the facility?

A. No. Religious institutions and organizations are specifically exempt from the ADA. However, there may be State laws that apply to religious organizations.

Q35. Do apartments, mobile home parks, and other residential properties have to comply with the ADA?

A. The ADA applies to housing programs administered by state and local governments, such as public housing authorities, and by places of public accommodation, such as public and private universities. In addition, the Fair Housing Act applies to virtually all types of housing, both public and privately-owned, including housing covered by the ADA. Under the Fair Housing Act, housing providers are obligated to permit, as a reasonable accommodation, the use of animals that work, provide assistance, or perform tasks that benefit persons with a disabilities, or provide emotional support to alleviate a symptom or effect of a disability. For information about these Fair Housing Act requirements see HUD's [Notice on Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-funded Programs](#).

Q36. Do Federal agencies, such as the U.S. Department of Veterans Affairs, have to comply with the ADA?

A. No. Section 504 of the Rehabilitation Act of 1973 is the Federal law that protects the rights of people with disabilities to participate in Federal programs and services. For information or to file a complaint, contact the agency's equal opportunity office.

Q37. Do commercial airlines have to comply with the ADA?

A. No. The Air Carrier Access Act is the Federal law that protects the rights of people with disabilities in air travel. For information or to file a complaint, contact the U.S. Department of Transportation, Aviation Consumer Protection Division, at 202-366-2220.

RESOURCES

For more information about the ADA, please visit our website or call our toll-free number.

ADA WEBSITE

www.ADA.gov

To receive e-mail notifications when new ADA information is available, visit the ADA Website's home page and click the link near the bottom of the right-hand column.

ADA INFORMATION LINE

800-514-0301 (Voice) and 800-514-0383 (TTY)

M-W, F 9:30 a.m. – 5:30 p.m. , Th 12:30 p.m. – 5:30 p.m. (Eastern Time) to speak with an ADA Specialist.

Calls are confidential.

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Treatment of service dogs at restaurants and the law



By Jill Kessler-Miller, expert witness in lawsuits involving dogs

Service dogs and their handlers are commonly mishandled and even mistreated in restaurants. Service is often denied, illegal questions asked and documentation demanded that is, by federal law, unnecessary. The fallout of such an altercation can run into the hundreds of thousands of dollars in penalties, fines and awards to

the plaintiff, not to mention the ensuing public relations firestorm on social media.

Most people are under the false impression that only seeing-eye dogs for the blind qualify as service dogs. This is not true. There are many types of service dogs, with many disabilities being invisible to the naked eye. Such dogs can be, just to name a few examples, medical alert dogs (diabetes, epilepsy, peanut allergy), mobility support or psychiatric conditions. Just because a person's need for their dog is not easily apparent to staff or management does not allow for the patron to be excused.

There is also a pervasive notion that health code pertaining to pet dogs supersedes federal law allowing service dogs full public access. The American Disability Act, as enforced by the Department of Justice, specifically states that all service dogs must be allowed into any and all types of businesses and public spaces, whether they are markets, restaurants, dry cleaners or theaters.

Think of service dogs as a medical device. If you would allow a wheelchair or an oxygen tank, then you must allow a service dog. Service dogs are not pet dogs — they are trained to specific tasks for their handler, to mitigate their disability. The dog is working the entire time, and not out for a little party with its owner.

"Please remember to treat the dog as a piece of medical equipment, said Leslie Horton, R.N., service dog trainer for Most Fine Canine Inc. in Frederick, Maryland. "You would not kiss at, bark at, whistle at, or try to feed or pet a crutch or wheel chair. All that is required of any restaurant is to ignore the dog and seat and serve the patron. Most service dogs have been taught to go under the table and lie down, and to stay out of the way."

Fear of dogs, allergies, cultural differences or personal discomfort is not grounds for refusing service of a patron and service dog team. Nor may a restaurant place the team in a separate area or in outside seating (unless requested by the handler). The handler must be treated as any other patron customer.

So when can you legally ask a person and their service dog to leave the premises? Again, the Department of Justice has been very clear that there are only a few instances in which a team may be excused from a place of business:

- Aggressive behavior (such as growling, lunging, snapping at people or other animals)
- Urinating or defecating inappropriately
- Inappropriate barking
- Unwanted attention towards other patrons
- Eating off the floor or tables
- Disruptive behavior requiring excessive efforts from the handler to control the dog

If you have reason to doubt the validity of the service dog, there are only two questions you may ask:

1. Is this a service animal?
2. What task does this animal provide for you?

The courts have been very clear that if a person responds, "Yes, this is my service dog," that the business must take their word for it, and further inquiry is both unjustified and illegal.

Staff or management may not ask, "What is your disability?" This is private, protected information and considered harassment of the disabled. You may not ask for the dog to demonstrate the task it provides. It is also illegal to

ask for "proof" of any kind, including documentation or a vest, as neither the federal or state government requires it. The only entity allowed to decide if an animal is truly a service dog is a judge in a courtroom.

Refusing service and/or being rude to a service Dog and handler is not only unprofessional behavior, but it is illegal at both state and federal levels. Providing good service to the team will guarantee further patronage and word-of-mouth praise. And that is a lot easier — and cheaper — than a lawsuit!

Jill Kessler-Miller is an expert witness in lawsuits involving dogs. She has specialty knowledge in training and behavior, aggression, dog bites, service dogs, animal cruelty, and dog breeds.

References:

"Service Animals," US Department of Justice, Civil Rights Division, Disability Rights Section, July 12, 2011, accessed 10-6-15 http://www.ada.gov/service_animals_2010.htm

"Service Animal Section," International Association of Canine Professionals, accessed 10-6-15 http://www.canineprofessionals.com/index.php?option=com_content&view=article&id=143:service-dog-poor-behavior&catid=20:site-content

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