



## Service Dogs and Emotional Support Animals

This Policy provides guidance to the Association clarifying Pool Area access rights for Service Dogs and the denial of rights for Emotional Support Animals in accordance with Title II and Title III of the Americans with Disabilities Act (ADA), Ventura County Environmental Health Code, and Simi Valley Municipal Code. Citations included where necessary.

### ■ **SERVICE DOGS**

A service, signal, or guide animal refers to 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. Tasks performed can include, among other things, pulling a wheelchair, retrieving dropped items, alerting a person to a sound, reminding a person to take medication, or pressing an elevator button.

#### ▫ **Allowed**

The ADA makes it clear that service animals are allowed in the Association Pool Area. A service animal must be allowed to accompany the handler to any place in the facility where Association Members are allowed. However, the ADA does not override the Ventura County public health rule that prohibit dogs in swimming pools or spas. The protection of the ADA only extends to allowing service dogs in the pool area, not on the furniture, only on the pool deck, and in other areas where the public is allowed to go.

#### ▫ **Under Control**

Further, 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. 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.

#### ▫ **Must Be Housebroken**

The ADA does not require the Association to provide for the care or supervision of a service animal, including cleaning up after the animal. Owners of such animals shall remove feces immediately and dispose of properly.

#### ▫ **Identification**

A landlord or the Association may not ask a Resident (Member or tenant) about the existence, nature, and extent of his or her disability. However, an individual with a disability who requests a



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reasonable accommodation may be asked to provide documentation so that the landlord or the Association can properly review the accommodation request. They can ask a person to certify, in writing, (1) that the tenant or a member of his or her family is a person with a disability; (2) the need for the animal to assist the person with that specific disability; and (3) that the animal actually assists the person with a disability.

In public situations where it is not obvious that the dog is a service animal, Association 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 is 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.

However, the City of Simi Valley requires any dog, to include service dogs, that is allowed in a public place be registered and licensed. (Division 4, Chapter 4, Article 1, Section 4411 - License tag requirements, as modified by SVMC 6-1.102.) Service dogs will therefore be registered and licensed and may have the special tag offered by Animal Control, making identification verifiable.

### ▫ **Breed Prohibition**

The Association's CC&Rs, Article VII, Section 7.18 does not prohibit any specific breeds of dogs. However, a particular service animal can be excluded based on that particular animal's actual behavior or history, should the dog pose a direct threat to the health or safety of others.

### ▫ **Penalties**

Violations of this section will result in removal of the animal and action in accordance with the Association's Governing Documents or any applicable statute.

Any person who knowingly and fraudulently represents himself or herself, through verbal or written notice, to be the owner ... of any canine licensed/qualified/identified as a **guide, signal, or service dog** shall be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding 6 months, by a fine not exceeding \$1,000, or by both fine and imprisonment. (CA PC § 365.7, *Fraudulent Representation.*)

### ■ **EMOTIONAL SUPPORT ANIMALS**

While Emotional Support Animals or Comfort Animals are often used as part of a medical treatment plan as therapy animals, they are not considered service animals under the ADA. These support animals provide companionship, relieve loneliness, and sometimes help with depression, anxiety, and certain phobias, but do not have special training to perform tasks that assist people with disabilities. Therapy animals are not limited to working with people with disabilities and therefore are not covered by federal laws protecting the use of service animals. Therapy animals provide people with therapeutic contact, usually in a clinical setting, to improve their physical, social, emotional, and/or cognitive functioning.



▫ **Not Allowed**

Emotional Support Animals will not be allowed in the pool area. The ADA considers such “emotional support animals” to be distinct from service dogs, and treats them differently. The ADA does not grant emotional support dog owners the same right of access to public places that it gives to individuals who use psychiatric service dogs. The work or tasks performed by a service animal must be directly related to the individual’s disability; the tasks must: 1) be trained and not a natural behavior of the dog, 2) must mitigate the person's disability, 3) must be needed by that specific handler. It does not matter if a person has a note from a doctor that states that the person has a disability and needs to have the animal for emotional support. A doctor’s letter does not turn an animal into a service animal.