
 <p style="text-align: center;"><b>WINSTON-SALEM</b> <b>POLICE DEPARTMENT</b> WINSTON-SALEM, NORTH CAROLINA GENERAL ORDERS</p>		<b>Issue Date</b>	<b>General Order #</b>
		<b>Revision Date</b>	<b>X.XX</b>
		<b>Approved By</b>	
		Catrina A. Thompson, Chief of Police	
<b>Subject</b>		<b>Index/Tag</b>	
Service Animals		Law Enforcement CALEA References	
		Communications CALEA References	
		Training Academy CALEA References	

**Purpose:** This policy provides the guidelines necessary to ensure the rights of individuals who use service animals to assist with disabilities are protected in accordance with the Americans with Disabilities Act (ADA). Service animals play an important role in the disability community, providing work and tasks that help persons with disabilities navigate the world. The Winston-Salem Police Department (WSPD) recognizes this need and is committed to making reasonable modifications to its policies, practices, and procedures in accordance with Title II of the ADA to permit the use of service animals that are individually trained to assist a person with a disability.

This General Order consists of the following numbered sections:

- I. Definitions
- II. Policy
- III. Identification and Use of Service Animals and Service Animals in Training
- IV. Requirements of Owner/Handlers
- V. WSPD Employee Responsibilities
- VI. Service Animals in Places of Public Accommodation
- VII. Criminal Violations with Regard to Service Animals

**I. DEFINITIONS**

- A. **Disability:** Generally, a physical or mental impairment that substantially limits one or more major life activities. A more detailed definition of "disability" under the Americans with Disabilities Act (the "ADA") can be found in 28 Code of Federal Regulations Section 36.105.
- B. **Service Animal:** Under the ADA means a dog or miniature horse 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, and that work or those tasks are directly related to the individual's disability. "Service animal" does not include an emotional support dog, a comfort dog or a pet.
- C. **Service Animal in Training:** Under North Carolina law, is a dog which is in the process of being individually trained to do work or perform tasks for the benefit of an individual with a disability. A service animal in training may be taken onto the premises of a public accommodation for the purpose of training when the dog is accompanied by a person who is training the dog and the dog wears a collar and leash, harness or cape that identified the animal as a service animal in training. N.C.G.S. § 168-4.2 (b).
- D. **Miniature Horse:** An animal for which public entities and places of public accommodation may

be required to make reasonable accommodation under the ADA if that miniature horse has been individually trained to perform work or a specific task for the benefit of an individual with a disability. In taking into account whether the use of a miniature horse within a public entity or place of public accommodation is reasonable, the public entity may consider:

1. whether the miniature horse is housebroken;
  2. whether the miniature horse is under the owner/handler's control;
  3. whether the facility can accommodate the miniature horse's type, size and weight; and
  4. whether the miniature horse's presence will compromise safety requirements/operations.
- E. **Owner/handler:** The person with a service animal who is responsible for the animal as outlined in this General Order.

## II. Policy

It is the policy of the Winston-Salem Police Department to provide services and access to persons with service animals in the same manner as those without service animals, reasonably modifying its policies, practices, and procedures when necessary to accommodate individuals assisted by service animals. WSPD employees are required to understand and apply the applicable laws regarding service animals and their owner/handlers.

## III. Identification and Use of Service Animals and Service Animals in Training

- A. Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness, or collar, as none such identifying marking is required under the ADA. Service animals are not pets and may be trained by an individual or organization to assist persons with disabilities. Service animals may be used in a number of ways to provide assistance, including but not limited to:
1. Guiding people who are blind or have low vision;
  2. Alerting people who are deaf or hard of hearing;
  3. Retrieving or picking up items, opening doors, or flipping switches for people who have limited use of their hands, arms, or legs;
  4. Pulling wheelchairs;
  5. Providing physical support and assisting with stability and balance;
  6. Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities or psychiatric disabilities, such as reminding a person with depression to take medication;
  7. Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.
- B. If it is apparent or a WSPD employee is otherwise aware that a particular animal is a service animal, the owner should not be asked any questions as to the status of the animal.
- If it is unclear whether an animal is a service animal, under the ADA, the individual may be asked only the following questions:
1. Is the animal required because of a disability?
  2. What work or task has the animal been trained to perform?
- C. If the individual indicates that the animal is required because of a disability and has been trained to work or perform at least one task, no further question as to the animal's status may be asked. The person may not be questioned about their disabilities nor may the person be asked to provide

any license, certification, or identification card for the service animal.

- D. Service animals in training must wear a collar and leash, harness or cape that identifies them as service animals in training.

#### **IV. Requirements of Owner/handlers**

- A. Service animals that are assisting individuals with disabilities are generally permitted in all public facilities and areas where the general public is allowed. WSPD employees are expected to treat individuals with service animals with the same courtesy and respect that the Winston-Salem Police Department affords to all members of the public. Failure to provide full service to an individual with a disability because that individual relies upon a service animal constitutes unlawful discrimination under the ADA and state law.
- B. A service animal must be under the control of its owner/handler. A service animal typically must be outfitted with a harness, leash or other tether unless the owner/handler's disability renders them unable to use such a device or would interfere with the tasks a service animal is trained to perform. In such a situation, the service animal must be otherwise under the owner/handler's control such as with voice commands, signals or the like.
- C. It is the responsibility of an owner/handler to take action to control any service animal which is behaving in a manner outside of the owner/handler's control. It is the responsibility of an owner/handler to ensure that a service animal is properly housebroken.

#### **V. WSPD Employee Responsibilities**

- A. Service animals that are assisting individuals with disabilities are generally permitted in all public facilities and areas where the general public is allowed. WSPD employees are expected to treat individuals with service animals with the same courtesy and respect that the Winston-Salem Police Department affords to all members of the public. Failure to provide full service to an individual with a disability because that individual relies upon a service animal constitutes unlawful discrimination under the ADA and state law.
- B. WSPD employees should not interfere with the important work performed by a service animal by talking to, petting, or otherwise initiating contact with a service animal.

#### **VI. Service Animals in Places of Public Accommodation**

- A. On occasion, a merchant or business owner or manager may request to have an individual with a service animal removed or trespassed from their business. It is not permissible to assist a business in the removal or exclusion of an individual with a disability if the merchant, business owner, manager, or service animal owner/handler expresses, or the officer otherwise has reason to believe, that the removal of the individual is due to the presence of a service animal. When handling calls involving a service animal, officers should be guided by the following ADA requirements concerning service animals:
  - 1. Businesses are required to allow service animals to accompany their owner in all areas that other customers or members of the public are allowed.
  - 2. Persons accompanied by service animals may not be restricted to certain areas of a business or other place of public accommodation.
  - 3. Service animals are not pets and therefore they are exempt from "No Pets" policies at public establishments.
  - 4. Service animals are not required to be licensed or certified by any state or local government, nor are they required to wear any tags, harnesses, vests, or other garments

identifying them as service animals.

5. Under the ADA, these rights are enforceable even if local health regulations provide a more restrictive standard on animals in public places.
- B. If an animal is not housebroken or exhibits vicious behavior, poses a direct threat to the health of others, or unreasonably disrupts or interferes with normal business operations, a place of public accommodation may direct the owner/handler to remove the animal from the premises. Under ADA guidelines, barking alone is not a threat nor does a direct threat exist if the person owner/handler takes prompt, effective action to control the animal. Each incident must be considered individually, and past incidents alone are not cause for excluding a service animal. Officers called to a disturbance, trespass or similar situation involving a service animal or purported service animal shall not make a decision to remove the animal or the owner/handler from the premises but will investigate and follow the applicable law. If any doubt or question as to the situation exists, responding officers are to consult with the Public Safety Attorney before taking action.

## **VII. Criminal Violations with Regard to Service Animals**

- A. Wrongful obstruction and exclusion of a service animal is a Class 2 or 3 misdemeanor per N.C. Gen. Stat. §§ 14-163.1 and 168-4.5. Merchants who refuse access to an individual because of the use of a service animal should be advised of the potential for criminal penalties.
- B. It is unlawful to disguise an animal as a service animal or service animal in training. N.C.G.S. § 168-4.5.