



## Village of Key Biscayne

88 West McIntyre Street • Key Biscayne, FL 33149

**Tel:** (305) 365-5511

**Email:** [feedback@keybiscayne.fl.gov](mailto:feedback@keybiscayne.fl.gov)

# Guidelines for Dogs on Village Beach & Parks

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Per the Village Council meeting held on January 26, 2021, the Village of Key Biscayne is reminding residents and visitors that dogs are not allowed on the beaches of Key Biscayne, unless special exceptions are made per Miami-Dade County code.

For more information, please see below:

1. Are dogs allowed on the beach within the Village?
  - a. No, except for limited exceptions. *Section 5-20(b)*, Miami-Dade County Codes, which is enforceable with the Village.
2. What are the exceptions?
  - a. a. Service animals are allowed. *Section 5-20(f)*, Miami-Dade County Codes; Americans with Disabilities Act ("ADA").
  - b. b. Dogs are permitted on the beach in areas specifically permitted for dogs. Currently, there are no such areas within the Village.
3. Is there a difference between a service animal and an emotional support animal?
  - a. Yes
    - i. Service animal: a dog that has been individually trained to do work or perform tasks for an individual with a disability. *Section 5-1(20)*, Miami-Dade County Codes.
    - ii. Emotional support animal: animals that provide comfort just by being with a person, but have not been trained to perform a specific job or task.
    - iii. Emotional support, therapy, comfort or companion animals are *not* considered service animals under the A.D.A.
4. Are emotional support/comfort/companion animals allowed on the beach under this exception?
  - a. No. They are not listed as an exception under *Section 5-20(f)*, Miami-Dade County Codes.
5. Are Village officers allowed to enforce the Miami-Dade County Code?
  - a. Yes. *Section 19-1(a)*, Village Code.
6. So how do I determine whether the dog is a service animal or emotional support animal?
  - a. You may only ask the following questions:
    - i. Is the dog a service animal required for a disability?
    - ii. What work or task has the dog been trained to perform?
7. Are there other investigative steps I can take?
  - a. Generally, no. Under the ADA, you cannot:
    - i. ask for documentation for the dog;
    - ii. require the dog demonstrate its task;
    - iii. ask about the nature of the person's disability; and
    - iv. See section III, below.
8. Are there occasions when a service animal can be prohibited from the beach?
  - a. Yes, under the following limited circumstances<sup>1</sup>:



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- i. If admitting service animals would “fundamentally alter the nature of a service or program”.
    - ii. If the service animal is out of control and the handler does not take effective action to control it.
    - iii. If the service animal is not housebroken.
9. If a citation is warranted, what law should I cite them under?
  - a. *Section 5-20(b)* of Miami-Dade County Code and *Section 19(a)* of the Village Code.
10. Are dogs allowed in Village parks?
  - a. No, except for limited exceptions. *Section 19-9*, Village of Key Biscayne Codes and Ordinances.
  - b. Exceptions: service animals *and emotional support animals* are exempt and allowed in parks under the Village Code. *Section 19.9(1) and (2)*, Village of Key Biscayne Codes and Ordinances.

## Details on Service Animals and the Law

### I. Definitions:

- 1) Service Animal: a dog that has been individually trained to do work or perform tasks for an individual with a disability.
  - a. Task performed must be directly related to the person’s disability.
  - b. **NOTE:** emotional support, therapy, comfort or companion animals are *not* considered service animals under the A.D.A. 1. The mere presence providing comfort does not make the dog a Service Animal – there must be a specific job or task performed related to the disability.
- 2) Do Work/Perform Tasks: take a specific action when needed to assist the person with a disability.
- 3) Emotional Support Animal: animals that provide comfort just by being with a person, but have not been trained to perform a specific job or task.

### II. Applicable Law:

- 1) Americans with Disabilities Act (“ADA”) - The ADA is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public. The purpose of the law is to make sure that people with disabilities have the same rights and opportunities as everyone else.
  - a. State and local governments, businesses, and nonprofit organizations that serve the public generally must allow service animals to accompany people with disabilities in all areas of the facility where the public is allowed to go.
- 2) Miami-Dade County Codes And Ordinances
  - a. *Section 5-1(29)* - *Service animal* means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability (as defined in the Americans with Disabilities Act of 1990, 42 U.S.C. § 12102, and in 28 C.F.R. § 35.104, as may be amended from time to time).
  - b. *Section 5-20* – Service Animals are exempt from the general prohibition of dogs in any public park or beach in the county.
- 3) Village of Key Biscayne Codes And Ordinances
  - a. *Section 19-1* – authorizes Village Police Department and Recreation Dept. officials to enforce County ordinances in all Village maintained parks or beaches.
  - b. *Section 19-9* - No person shall be permitted to take any domestic animal (including dogs) into any Village park whether on leash, in arms or running at large, except into those parks or areas within parks specifically designated by the Village Council for dogs or other domestic animals. The provisions of this section shall not apply to:



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- i. The use of a service animal; or
- ii. The use of an emotional support or psychiatric assist animal if proper documentation is provided to the Village from a licensed mental health care professional.

**III. What to know:**

- 1) The ADA does not require the animal wear a vest, ID tag, or specific harness.
- 2) Mandatory registration of service animals is not permissible under the ADA.
- 3) The handler is responsible for caring for and supervising the service animal.
- 4) People can bring more than one service animal into a public place.
- 5) The ADA does not require service animals to be registered.
- 6) Service animals are not exempt from local dog licensing, registration, vaccination, or public health requirements.
- 7) The ADA does not restrict the type of dog breeds that can be service animals.
  - a. A service animal may not be excluded based on assumptions or stereotypes about the animal's breed.
  - b. Local governments that prohibit specific breeds (such as Miami-Dade County's prohibition of Pit Bulls) *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.*
    - i. Determined on a case-by-case basis, based upon the particular animal's behavior or history.
- 8) The ADA does not override public health rules that prohibit dogs in swimming pools – however, service animals must be allowed on the pool deck/other areas where public is allowed to go.

**IV When can service animals be prohibited:**

- 1) If admitting service animals would “fundamentally alter the nature of a service or program”.
- 2) If the service animal is out of control and the handler does not take effective action to control it.
  - a. 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.*
  - b. If devices can't be used, the handler must use voice, signal or other effective means to maintain control of the animal.
- 3) If the service animal is not housebroken.
- 4) When there is a legitimate reason to ask that a service animal be removed, staff must offer the person with the disability the opportunity to obtain goods or services without the animal's presence.