



Updating By-law Provisions Relating to Service Animals

Date: October 11, 2016

To: Licensing and Standards Committee

From: Executive Director, Municipal Licensing and Standards

Wards: All

SUMMARY

This report proposes amendments to Toronto Municipal Code, Chapter 545, Licensing, Chapter 349, Animals, and Chapter 608, Parks to include the current definition of "service animal", provide exemptions for persons with disabilities that are accompanied by service animals, and update the language relating to persons with disabilities. These amendments will reinforce the expectation of inclusive treatment of all consumers and residents in the City by ensuring that persons with disabilities accompanied by service animals are treated equitably.

The proposed updates reflect current provincial Standards under the *Accessibility for Ontarians with Disabilities Act (AODA)*, which were amended by Ontario Regulation 165/16, effective July 1, 2016.

Legal Services, Parks, Forestry and Recreation, and Equity, Diversity and Human Rights were consulted in the preparation of this report.

RECOMMENDATIONS

The Executive Director, Municipal Licensing and Standards recommends that:

1. City Council approve amendments to Toronto Municipal Code, Chapter 545, Licensing, Article I, General Licensing Provisions, to update the statutory reference contained in the definition of "Service Animal" to the recently amended Integrated Accessibility Standards Regulation (IASR), O.Reg. 191/11.
2. City Council approve amendments to Toronto Municipal Code, Chapter 349, Animals, as follows:
 - a. Replace the definition of "Service Animal" in Article I so that it reads as follows:

"Service Animal" - An animal described in subsection 80.45(4) of O. Reg. 191/11, Integrated Accessibility Standards.

b. Exempt service dogs from 349-5, Number of cats and dogs restricted, so that the limit of the number of dogs contained in section 349-5 does not include service animals where the number of service animals required exceeds the limits contained in the section.

c. Exempt an owner of a service animal from the requirement to register cats, obtain licence tags, and pay fees for the service animal.

3. City Council approve amendments to Toronto Municipal Code, Chapter 608, Parks, as follows:

a. Delete the words "Disabled Person" throughout and replace it with the words "Person with a Disability".

b. Delete the definition of "Disabled Person".

c. Add the following as new definitions:

"Disability" - The same meaning as in section 2 of the *Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c. 11*.

"Service Animal" - An animal described in subsection 80.45(4) of O.Reg. 191/11, Integrated Accessibility Standards.

d. Add, as a new section, the prohibiting of discrimination against individuals using service animals, as follows:

While in a park, no person shall, in respect of any person with a disability being accompanied by a guide dog or service animal, by reason only of the presence of the guide dog or service animal:

(1) Refuse to permit such person to enter with a service animal into or upon any place or premises within a park; or

(2) Refuse to permit the person and service animal to remain in or upon such place or premises within a park.

(3) This section does not apply if the guide dog or service animal is otherwise excluded by law from the premises.

e. Delete the words "blind persons reliant upon a guide dog" in subsections 608-34A(2) and (5), and replace with "person with a disability accompanied by a service animal".

FINANCIAL IMPACT

There are no financial implications beyond what has already been approved in the current year's budget.

The Deputy City Manager & Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting of June 10, 2015, City Council adopted Phase 1 of the Comprehensive Review of Chapter 545, Licensing, including updates and amendments to modernize the By-law to reflect current language in the *Accessibility for Ontarians with Disabilities Act (AODA)*.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.LS4.2>

COMMENTS

The AODA and Integrated Accessibility Standards Regulation (IASR)

The *AODA* is provincial legislation that provides for the development, implementation and enforcement of accessibility standards in order to achieve accessibility for Ontarians with disabilities. The *Act* applies to every person or organization in the public and private sectors of the Province.

Changes to the IASR

The Province of Ontario has made amendments to accessibility standards under the *AODA*. The Accessibility Standards for Customer Service ("Customer Service Standard") regulation underwent a five year review and, among other changes, this regulation has been added to the Integrated Accessibility Standards Regulation (O. Reg. 191/11) (IASR) creating a single accessibility standard under the *AODA*. The amendments to the IASR came into force on July 1, 2016.

The IASR is now the single regulation which contains multiple accessibility standards. The former Accessibility Standards for Customer Service (Ontario Reg. 429/07) has been revoked.

IASR, subsection 80.47, requires that a person with a disability accompanied by a guide dog or other service animal must be permitted to enter public or third party premises where goods, services, or facilities are made available to the public. A person using a service animal must be permitted to enter the premises with the animal and to keep the animal with him or her, unless the animal is not permitted by law from the premises (for example, while service animals are permitted in restaurants, they are prohibited in places where food is prepared, processed, or handled, per the *Health Protection and Promotion Act*). This remains the same as before the recent amendment. However, the amendment did include significant updates to the definition of "Service Animal" in IASR Section 80.45 (4) as follows:

An animal is a service animal for a person with a disability if:

- (a) the animal can be readily identified as one that is being used by the person for reasons relating to the person's disability, as a result of visual indicators such as the vest or harness worn by the animal; or
- (b) the person provides documentation from one of the following regulated health professionals confirming that the person requires the animal for reasons relating to the disability:
- (i) A member of the College of Audiologists and Speech-Language Pathologists of Ontario.
 - (ii) A member of the College of Chiropractors of Ontario.
 - (iii) A member of the College of Nurses of Ontario.
 - (iv) A member of the College of Occupational Therapists of Ontario.
 - (v) A member of the College of Optometrists of Ontario.
 - (vi) A member of the College of Physicians and Surgeons of Ontario.
 - (vii) A member of the College of Physiotherapists of Ontario.
 - (viii) A member of the College of Psychologists of Ontario.
 - (ix) A member of the College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario. O. Reg. 165/16, s. 16.

Updates to Chapter 545, Licensing

Staff propose updating the statutory reference contained in the definition of "service animal" to the recently amended IASR, O.Reg. 191/11.

Currently, the By-law definition of "service animal" references the now revoked regulations:

SERVICE ANIMAL - means an animal described in subsection 4(9) of Accessibility Standards for Customer Service, O.Reg. 429/07.

The definition, updated with reference to the integrated regulation and specific mention of the section relating to service animals, will read as follows:

SERVICE ANIMAL - An animal described in subsection 80.45(4) of O.Reg. 191/11, Integrated Accessibility Standards.

Amendments to Chapter 349, Animals

Update Definition of "Service Animal" in Chapter 349

Chapter 349, Animals, defines "service animal" as "an animal that has been trained to assist an individual with a disability". Staff propose updating this definition to reflect the current definition available in the IASR, and similar to Chapter 545, above.

Add Exception for Service Animals under Restrictions for Number of Dogs

Section 349-5 restricts the number of dogs permitted in any dwelling unit in the city to three dogs. This restriction is in place to ensure that dwellings are not over-crowded with animals; the animals, residents of the dwelling, and neighbours live in healthy and safe environments; and that the animals are sufficiently cared for. This restriction is also in place to minimize other nuisances that may result from keeping multiple animals in one dwelling (e.g. noise, smell, droppings around the dwelling, etc.).

While this restriction is in place for the health and safety of the public and animals, there are some scenarios where there may be multiple service animals in one dwelling. Since these service animals serve persons with disabilities and are unlike other pets, staff propose creating an exception in Section 349-5 for service animals that would allow dwellings to exceed the restricted number of dogs currently prescribed in Chapter 349. This exception would only apply where the number of service animals required exceeds the limits contained in Section 349-5. This would allow dwellings to keep more than three dogs if all dogs are serving as service animals.

Individuals keeping service animals in their dwellings will still be required to maintain sanitary conditions for the animal and provide care for the animals according to the By-law.

Licence and Fee Exemption for Service Animals

Article V, Cats requires cat owners to register and obtain a licence tag and pay the appropriate fees, as outlined in Chapter 441, Fees and Charges.

Currently, service dogs are exempted from associated licensing and fee requirements in Article IV, Dogs. Staff propose adding an exception to licensing and fees for cats used as service animals. This change would make the treatment of service animals in Chapter 349 consistent throughout.

Unlike other pets, service animals assist people with disabilities. Providing fee and licensing exemptions for individuals who use service animals will ensure people with disabilities who require the assistance of service animals are not faced with additional barriers.

Amendments to Chapter 608, Parks

Update Definition of "Disabled Persons"

Currently, Chapter 608, Parks defines a "disabled person" as follows:

DISABLED PERSON - Includes a person who is blind or who has any degree of physical disability, which requires the physical reliance on a wheelchair, crutches, braces, canes or other similar remedial appliance or device.

This definition is outdated and does not align with the Human Rights Code and AODA definition of disability. Moreover, the definition is limited in scope and excludes individuals who do not have physical disabilities or people whose disabilities are unseen, or not readily apparent.

The AODA defines a disability as follows:

"disability" means,

(a) any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or

hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device,
(b) a condition of mental impairment or a developmental disability,
(c) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,
(d) a mental disorder, or
(e) an injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act, 1997;
("handicap")

In order to ensure that individuals with disabilities are not discriminated against in parks and when accompanied by service animals, this definition should be updated to include the comprehensive description of a disability, in accordance with the AODA. Staff propose replacing the phrase "disabled person" with "person with a disability" and substituting the definition of "disabled person" with a definition of "disability", as follows:

DISABILITY - The same meaning as in section 2 of the *Accessibility for Ontarians with Disabilities Act, 2005*, S.O. 2005, c, 11.

Add Definition of "Service Animal"

Currently, Chapter 608, Parks, does not provide a definition for "service animal". Staff propose adding the definition of "service animal", consistent with Chapter 545, Licensing and Chapter 349, Animals, discussed above.

This will bring the Parks By-law in line with provincial regulations and provide appropriate language for the general offence provision proposed below.

Add General Offence for Discriminatory Behaviour

Chapter 608, Parks does not explicitly prohibit discrimination against individuals with disabilities in parks. Staff propose adding to Chapter 608 a provision prohibiting discriminatory behaviour against persons with disabilities on the part of any person, including park staff and event organizers. This will enable City staff to hold individuals to account if there is an incident of discrimination.

Update Language in Article VI, 608-34, Dogs

Section 608-34, Dogs, prescribes rules for individuals entering parks with dogs. For instance, the By-law prevents an individual from allowing a dog off-leash in areas that are not designated for such use.

Section 608-34 provides the following exemptions for service dogs:

A(2) While in a park, no person as owner or person having control of a dog shall, excluding blind persons reliant upon a guide dog, and a working dog providing a service to the City, allow the dog to enter a prohibited area.

A(5) While in a park, no person as owner or person having control of a dog shall, excluding blind persons reliant upon a guide dog, and a working dog providing a service to the City, allow the dog to enter a swimming beach except between November 1 and March 31.

The language in A(2) and A(5) is outdated and only references guide dogs used by blind persons. This should be updated to conform to provincial laws and the definition of "service animal".

Staff propose changing the existing language in these provisions from "blind persons reliant upon a guide dog" to "person with a disability accompanied by a service animal". Service dogs are used by individuals for various disabilities. This updated language will recognize the scope of use of service dogs by individuals with disabilities.

The changes proposed in this report will update Chapter 545, Licensing, Chapter 349, Animals, and Chapter 608, Parks, to include the current language around "service animals" and ensure that there is adequate accommodation of individuals who use service animals. It is proposed that these changes come into force immediately upon City Council adoption.

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SIGNATURE

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