



Americans with Disabilities Act (ADA)
Administrative Policy#21

July 2017

I. **POLICY**

This policy is established to explain the principles of Title I of the Americans with Disabilities Act (ADA) and the Americans with Disabilities Act Amendments Act of 2008 (ADAAA) and provides compliance guidance to city departments. The ADA makes it unlawful to discriminate against a qualified individual with a disability in the job application procedures, hiring, firing, promotion, compensation, training, and development, and in other terms and/or conditions of employment. The city of Portsmouth supports the policies and guidelines as enacted by the Americans with Disabilities Act of 1990 and the ADA Amendments Act of 2008.

II. **COMMITMENT**

It is the policy of the city of Portsmouth to fully comply with the requirements of the ADA and the ADA Amendments Act of 2008 ("the ADA") in both spirit and intent. No qualified individual as defined in the ADA shall, on the basis of such disability, be excluded from participation in or be denied services, programs, or activities of the city or be subjected to discrimination by the city and its employment practices, except for reasons of business necessity. The city will pursue reasonable accommodations for employment and other activities for applicants, and for employees and citizens participating in city services and programs. The reasonableness including the expense and hardship of such accommodations will be evaluated on an individual basis to determine the city's ability to honor the request.

III. **DEFINITIONS**

A. **Americans' with Disabilities Coordinator** ("ADA Coordinator") – The city's Human Resource Management Director is the designated the Americans with Disabilities Act Coordinator.

B. **Direct Threat** – A significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation.

- C. **Essential Functions** – A job duty is an essential job function if performing the function is the reason the position exists and if not performing the function alters the nature of the position.
- D. **Major Life Activities** – Caring for oneself, performing manual tasks, seeing hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, working and the general operation of a major bodily function. This list is not intended to be exhaustive but intended solely for illustration.
- E. **Qualified Individual with a Disability** – A person who meets legitimate skill, experience, education, and other requirements of a position that he or she holds or seeks, and who can perform the “essential functions” of the position with or without reasonable accommodation.
- F. **Reasonable Accommodation** – Modifications or adjustments made for the known disability of an employee or applicant by structuring the job or the work environment in a manner that will enable the person with a disability to perform the essential functions of a job. Reasonable accommodation includes, but is not limited to, making facilities accessible; adjusting work schedules; providing assistive devices; and/or services.
- G. **Undue Hardship** – An action requiring significant difficulty or expense when considered in light of a number of factors including the nature and cost of the accommodation in relation to the size, resources, nature, and structure of the city’s operation.

IV. **RESPONSIBILITIES**

A. Human Resource Management

Has the overall responsibility for assuring that the city is in compliance with Title I of the ADA. Human Resource Management is also responsible for providing information on the ADA to the workplace, monitoring reasonable accommodation efforts, and investigating complaints concerning the employment provisions of the ADA. It is also the responsibility of Human Resource Management to provide training to all city employees. In addition, it shall be the responsibility of each city employee, supervisor, manager, and department head to comply with the spirit and intent of the requirements of the ADA and this policy. Failure to do so is prohibited and may result in disciplinary action.

B. Department Heads

Shall review job descriptions to ensure that they are up-to-date, accurately describe the position as it exists, carefully outlining the essential functions. Specific attention should be given physical requirements of the position. In addition, department heads shall review the selection processes used by the department to ensure that they adhere to ADA requirements and communicate ADA selection standards to staff involved in the interview and selection process.

C. Employees

Employees are responsible for providing quality service to all residents and being sensitive to the needs of residents and co-workers with disabilities. If an employee becomes disabled and needs reasonable accommodations to perform the essential job functions of their position, they must notify their department head of such disability and the accommodation needed. Department heads in turn should notify Human Resource Management.

V. PROCEDURES FOR CITY EMPLOYEES

Requests for Accommodations:

Accommodations will be made on an individual basis, because the nature and extent of a disabling condition and requirements of the job vary in each case. Generally, an individual must inform Human Resource Management that he or she needs a reasonable accommodation because of a disability.

If a person with a disability requests an accommodation, but cannot suggest one, the department head/supervisor and the individual should work together to find a suitable accommodation. The employee, department head and the ADA Coordinator will engage in an interactive process to clarify the individual's needs and identify the appropriate reasonable accommodation.

If there is a question about the reasonableness of an accommodation, the ADA Coordinator must be consulted before an employee's accommodation request is denied. If a reasonable accommodation is refused by the individual, the department/office shall notify the ADA Coordinator and is not required to take any further action. An employee who wishes to allege a violation or request an accommodation should contact the ADA Coordinator.

Employees requiring an accommodation must be otherwise qualified, and the disability made known to the employer. In general, it is the responsibility of the employee with a disability to self-identify and inform Human Resource Management that an accommodation is needed. To request an accommodation, the applicant/employee shall complete the Employee Self-Identification and

Request for Accommodation Packet (see Attachment). This confidential self-identification process is coordinated by Human Resource Management.

Human Resource Management will evaluate the request and may consult with the City Attorney's Office. Medical documentation will be required before a reasonable accommodation request will be considered to include an appointment with the city's medical provider. Once all documentation is received, Human Resource Management will respond to the employee within fifteen (15) calendar days.

VI. PROCEDURES FOR APPLICANTS

Applicants in need of accommodation should contact Human Resource Management. The applicant and the ADA Coordinator will engage in an interactive process to clarify the individual's needs and identify the appropriate reasonable accommodation.

VII. PROCEDURES TO FILE A COMPLAINT

The procedure to file a complaint under the ADA is as follows:

1. Any individual with a disability who alleges he/she has been discriminated against in any employment practice or unfairly restricted from accessing city's facilities, services, or activities on account of disability may submit a complaint in writing to the city's ADA Coordinator.
2. The ADA Coordinator or designee shall investigate the complaint and within twenty (20) business days from receipt of the complaint issue a written response to the complainant which will state whether or not the complaint is covered by the ADA and how the issue will be addressed. The ADA Coordinator reserves the right to grant extensions of the time limits for investigations in order to fully investigate charges.
3. The use of this complaint procedure shall not be a prerequisite to the pursuit of other remedies available under applicable law.

Approved:



City Manager