City of Oak Harbor ADA Policy and Procedures

The City of Oak Harbor complies with the Washington Law Against Discrimination (WLAD), the Americans with Disabilities Act (ADA) and the Oak Harbor Municipal Code. The City does not discriminate on the basis of disability. It is the policy of the City to assure disabled persons the opportunity to participate in, or benefit from employment, services, activities and facilities. Where possible, the City will provide reasonable accommodation in compliance with the WLAD, ADA and any other applicable laws.

The City of Oak Harbor will not discriminate against qualified disabled applicants or employees in application procedures, hiring, advancement, discharge, compensation, training, or other terms, conditions and privileges of employment. The City of Oak Harbor makes reasonable accommodation to individuals with temporary or long-term disabilities who can perform the essential functions of the job, unless it results in undue hardship. An individual who can be reasonably accommodated for a job, without undue hardship will be given the same consideration for the position as any other applicant. No employee of the City is to discriminate against any applicant or fellow employee on the basis of a disability.

All employees are required to comply with safety standards. Applicants who pose a direct threat to the health or safety of other individuals in the workplace and the threat cannot be eliminated by reasonable accommodation will not be hired. Current employees who pose a direct threat to the health or safety of other individuals in the workplace will be placed on appropriate leave until an organizational decision has been made regarding the employee’s immediate employment situation.

It is the employee’s responsibility to notify their Department Head and Human Resources (HR) if s/he suffers from a disability that prevents her/him from performing essential job functions without reasonable accommodations. It is the employee’s duty to provide medical documentation of any claimed disability and medical justification for any requested accommodation.

It is a job applicant’s responsibility to notify HR if s/he suffers from a disability and requires reasonable accommodation.

The City of Oak Harbor gives priority to methods that allow persons with disabilities to participate in programs and activities in the most integrated services possible.

Any suggestions, requests or complaints an applicant, employee or member of the public may have alleging discrimination due to a disability should be directed to the ADA Coordinator. The City Administrator, City of Oak Harbor, 865 SE Barrington Drive, Oak Harbor, Washington 98277, (360) 279-4500 has been designated to coordinate ADA compliance efforts.

As used in this policy, the following terms have the indicated meaning and will be adhered to in relation to the ADA policy:

- "Disability" refers to a physical or mental impairment that substantially limits one or more of the major life activities of an individual. An individual who has such an
impairment, has a record of such an impairment or is regarded as having such an impairment is a “disabled individual”.

- “Direct threat to safety” means a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

- A “qualified individual with a disability” means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or has applied for.

- "Reasonable accommodation" means making existing facilities readily accessible to and usable by individuals with disabilities: job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, adjustment or modification of examinations, adjustment or modification of training materials, adjustment or modification of policies and similar activities.

- “Undue hardship” means an action requiring significant difficulty or expense by the employer. The factors to be considered in determining an undue hardship include: (1) the nature and cost of the accommodation; (2) the overall financial resources of the facility at which the reasonable accommodation is to be made; (3) the number of persons employed at the facility; (4) the effect on expenses and resources or other impact upon that facility; (5) the overall financial resources of the City; (6) the overall number of employees and facilities; (7) the operations of the particular facility as well as the entire City; and (8) the relationship of the particular facility to the City. These are not all of the factors but merely examples.

- “Essential job functions” refers to those activities of a job that are the core to performing said job for which the job exists and cannot be modified.

**Procedure for employees to request a needed accommodation**

1. Employees with disabilities who need accommodation in application procedures, hiring, advancement, discharge, compensation, training, or other terms, conditions and privileges of employment must make a request and specify what reasonable accommodation is needed. The employee must contact the HR Office to request reasonable accommodation. The employee must also notify his/her Department Head of a request for accommodation. The employee must complete the Employee Request for Accommodation form. The HR Department will then review the request with the Department Head. The employee must keep communications with both HR and his/her Department Head of all changes requested.

2. The process between the employee and the City is collaborative with the ultimate decision being made by the City. The employee has a duty to be courteous and respectful in his/her dealings with the City to assure the interactive process works.

**Procedure to Guide the City in Identifying Reasonable Accommodations for Employees**

1. The Department Head with assistance of HR reviews the job, its purpose and identifies essential job functions to see if the current job description is up-to-date.
2. HR consults with the employee to obtain information as to the abilities and limitations of the employee, information as to whether a disability exists as defined by law, and find out how the disability limits job functions and how the limit can be overcome with accommodation. Both the City and employee need to reach out and take positive steps to determine if a reasonable accommodation is necessary.

3. The job description should accurately indicate which of the job functions are essential. Write an updated job description if necessary.

4. If needed, HR should have the employee sign a medical release form before requesting medical information.

5. If appropriate, have the employee’s doctor review the job description and determine if the employee is capable of performing essential job functions with or without reasonable accommodation.

6. If appropriate, an independent medical exam may be required.

7. Keep all medical information in a file separate from the employee's personnel file.

8. After investigation is complete, the City must determine what major life activity(ies) is/are limited by the impairment and whether reasonable accommodation is necessary.

9. An employee may not be able to perform essential job functions and still not be disabled as defined by law.

If the employee is disabled and is limited in ability to complete job function, discuss and identify possible accommodations with the employee, medical providers, the supervisors who have knowledge of the work site and the job, EAP, and vocational or rehabilitation counselor, as appropriate. Ask the employee and others identified for their suggestions as to accommodations needed. The decision as to the appropriate accommodation must be based on the particular facts of each case.

HR should inform the Department Head of the results of his/her investigation.

10. The Department Head should consider the employee’s preferences and other possible accommodations. The Department Head needs to determine whether an accommodation creates an undue hardship for the City. If the accommodation imposes “undue hardship”, consider alternative accommodations, and document the factors (e.g., cost of impact) that preclude accommodation. NOTE: The ADA does not require the City to make an accommodation if the accommodation “would impose undue hardship on the operation of the business.” “Undue hardship” refers to an action that is unduly costly, extensive, substantial, disruptive or will fundamentally alter the operation of the City’s business.

11. The City selects the most appropriate accommodation for both the employee and the employer. If the employee rejects an accommodation proposed by the City, HR, Department Head and employee should discuss the reasons for rejection. The City should determine if additional or different accommodation is needed.
12. Determine whether the employee creates a “direct threat” to himself or others in the performance of the job tasks. Document the direct threat by: Identifying the risk caused by the limitation; the potential harm that could result; the medical or observable facts whereon the risk is based.

13. Identify and document the reasonable accommodation or the reason no accommodation is needed.

14. Under the direction of the Mayor, the Department Head selects a reasonable accommodation, if available. If an accommodation is available, send an accommodation approval letter. If an accommodation is not available, send an accommodation denial letter.

**Procedure for Applicants**

1. Employees and others who need accommodation in application procedures, hiring, advancement, discharge, compensation, training, or other terms, conditions and privileges of employment must make a request and specify what reasonable accommodation is needed in writing, if possible. Contact HR to request the reasonable accommodation.

**Procedure for the Public**

1. Members of the public planning to attend a meeting and in need of assistance because of a disability, contact the City Clerk at 360-279-4539 two (2) days before the meeting.

2. City Clerk will work with HR to provide reasonable accommodation.

3. Meetings are held in accessible facilities.

**Procedure for Grievances (Complaints):**

A complaint must be filed in writing, if possible, and contain the name and address of the person filing it and briefly describe the alleged violation of the regulations, discrimination or failure to accommodate. Some requests must, by necessity, be verbal. Examples where a request would be verbal, is when the public requests meeting accommodations over the phone or; for example, the disability prevents a person from writing.

The complaint must be filed within ten (10) days after the complaint becomes aware of the alleged violation. Processing of allegations of discrimination which occurred before this grievance procedure was in place will be considered on a case-by-case basis.

An investigation, as may be appropriate, shall follow the filing of a complaint. The investigation shall be conducted by a person designated by the City Administrator. These rules contemplate informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.

A written determination as to the validity of the complaint and a description of the resolution, if any, shall be issued and a copy forwarded to the complainant as soon thereafter as is reasonably possible to do.
The ADA Coordinator shall maintain the files and records of the City of Oak Harbor relating to the complaints filed. The Coordinator may assign this task to another.

The complainant can request a reconsideration of the case in instances where he or she is dissatisfied with the resolution. The request for reconsideration must be made within ten (10) days to the Oak Harbor City Council. Prior to hearing by the City Council, the ADA Coordinator may refer the matter for mediation if the complainant agrees.

The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies such as the filing of an ADA complaint with the responsible federal department or agency. Use of this grievance procedure is not a prerequisite of other remedies.

These rules shall be construed to protect the substantive rights of interested persons to meet appropriate due process standards and to assure that the City of Oak Harbor complies with the ADA and implementing regulations.