**SECTION: HARASSMENT, DISCRIMINATION, AND RETALIATION PREVENTION**

**POLICY:** Americans with Disability Act (ADA) **EFFECTIVE**

Americans with Disabilities Amendments Act (ADAA) **DATE:** insert date adopted

**STATEMENT OF PURPOSE:**

The [Americans with Disabilities Act](https://www.ada.gov/topics/intro-to-ada/) (ADA) and the [Americans with Disabilities Amendments Act](https://www.eeoc.gov/statutes/americans-disabilities-act-amendments-act-2008) (ADAAA) are federal laws that require employers with 15 or more employees to not discriminate against applicants and individuals with disabilities and, when needed, provide reasonable accommodations to applicants and employees who are qualified for a job—with or without reasonable accommodations—so that they may perform the position’s essential job duties.

It is the policy of the City to comply with all federal and state laws concerning the employment of individuals with disabilities and to act in accordance with regulations and guidance issued by the Equal Employment Opportunity Commission (EEOC). Furthermore, it is the City’s policy not to discriminate against qualified individuals with disabilities in regard to application procedures, hiring, advancement, compensation, training, discharge, or other terms, conditions and privileges of employment.

**DEFINITIONS:**

1. Disability: A physical or mental impairment that substantially limits one or more major life activities of the individual, a record of such an impairment, or being regarded as having such an impairment.
2. Major life activities: This includes, but is not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working.
3. Major bodily functions : Body systems includes, but is not limited to, neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin and endocrine that could be affected by a physical or mental impairment such as any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more.
4. Other impairments: Also covered are any mental or psychological disorders, such as intellectual disability, organic brain syndrome, emotional or mental illness and specific learning disabilities.
5. Examples: The examples provided in the above terms are not meant to be all-inclusive and should not be construed as such. They are not the only conditions that are considered to be disabilities, impairments or reasonable accommodations covered by the ADA/ADAAA policy.
6. Substantially limiting: In accordance with the ADAAA final regulations, determining whether an impairment substantially limits a major life activity requires an individualized assessment, and an impairment that is episodic or in remission may also meet the definition of disability if it would substantially limit a major life activity when active. These types of impairments may include asthma, diabetes, epilepsy, hypertension, major depressive disorder, bipolar disorder, and schizophrenia. An impairment, such as cancer that is in remission but that may possibly return in a substantially limiting form, is also considered a disability under the final ADAAA regulations.
7. Direct threat: A significant risk to the health, safety, or well-being of other individuals.
8. Qualified individual: An individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.
9. Reasonable accommodation: Includes any changes to the work environment and may include making existing facilities readily accessible to and usable by individuals with disabilities; job restructuring; offering part-time or modified work schedules; working remotely; reassignment to a position; acquiring or modifying equipment or devices; appropriate adjustment or modifications of examinations, training materials or policies; providing qualified readers or interpreters; and other similar accommodations for individuals with disabilities.
10. Undue hardship: Significant difficulty or expense that would be incurred by the employer if an accommodation were implemented. In determining whether an accommodation would impose an undue hardship on a covered entity, factors to consider include:
	1. The nature and cost of the accommodation.
	2. The overall financial resources of the facility or facilities involved in providing the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources, or the impact of such accommodation on the operation of the facility.
	3. The overall financial resources of the employer; the size, number, type and location of facilities.
	4. The type of operations of the City/department, including the composition, structure and functions of the workforce; administrative or fiscal relationship of the particular facility involved in making the accommodation to the employee.
11. Essential functions of the job: Job activities the employer determines are essential or core to performing the job; these functions cannot be modified.

**APPLICABILITY:**

This policy applies to all employers of 15 or more employees and is applicable to all applicants for employment and all employees, regardless of FLSA status.

**PROCEDURES:**

1. When an applicant with a disability requests accommodation and can be reasonably accommodated without creating an undue hardship or causing a direct threat to workplace safety, the applicant will be given the same consideration for employment as any other applicant. Applicants who pose a direct threat to the health, safety and well-being of themselves or others in the workplace when the threat cannot be eliminated by reasonable accommodation will not be hired.
2. The City will reasonably accommodate qualified individuals with a disability so that they can perform the essential job functions unless doing so causes a direct threat to these individuals or others in the workplace and the threat cannot be eliminated by reasonable accommodation or if the accommodation creates an undue hardship to the City. Contact human resources (HR) with any accommodation questions or requests.
3. All employees are required to comply with the City's safety standards. Current employees who pose a direct threat to the health or safety of themselves or other individuals in the workplace will be placed on leave until an organizational decision has been made regarding the employee's immediate employment situation.
4. Individuals currently using illegal drugs at or outside of work are excluded from coverage under the City’s ADA policy. The City’s ADA policy does not extend protections to individuals who are currently using illegal drugs. However, if an individual is in or has completed a drug rehabilitation program and is not currently using illegal drugs, a reasonable accommodation may be available.
5. The HR department is responsible for implementing this policy, including resolving reasonable accommodation, safety/direct threat, and undue hardship issues.
6. When an applicant/employee requests a reasonable accommodation, the City will engage in an interactive process to determine if a reasonable accommodation, without undue hardship, is an option for the applicant/employee to be able to perform their essential job functions.
7. The interactive process is a discussion about an applicant's or employee's disability and accommodation needs. The applicant or employee’s health care provider and employer will each share information about the nature of the disability, the limitations that may affect his or her ability to perform the essential job duties, and accommodations. This discussion is the foundation of compliance with the Americans with Disabilities Act.

During this process, the City will review the accommodation request from the applicant/employee or his or her health care provider. While the ADA does not require the request to be put in writing, having documentation of the request is a good practice.

The City will obtain written medical release or permission from the employee. The employee's health care provider may not disclose information or answer questions about the employee's disability without the employee's permission.

The City will ask the employee to provide appropriate documentation from the employee's health care or rehabilitation professional regarding the nature of the impairment, its severity, the duration, the activities limited by the impairment(s) and the extent to which the impairment(s) limits the employee's ability to perform the job's essential duties/functions.

The City will document the interactive process and make a decision with regard to any ADA or ADAAA accommodation, whether temporary or permanent. This decision will be provided to the applicant/employee in writing once a determination is made.