



## ADMINISTRATIVE POLICIES AND PROCEDURES

Policy: Americans with Disabilities Act (ADA) – Reasonable Accommodations Policy

Creation Date: May 30, 2015

Prepared By: HR Department

Approved By: City Manager

Legal Review: Elizabeth Ruhmann

### **POLICY: AMERICANS WITH DISABILITIES ACT (ADA) – REASONABLE ACCOMODATIONS**

To provide reasonable accommodations for employment with the City of El Paso (the “City”) to individuals with permanent disabilities.

#### **POLICY**

The City is committed to providing equal employment opportunities to individuals with disabilities, those regarded as having disabilities and those associated with individuals with disabilities. Accordingly, we do not discriminate against qualified individuals with disabilities in regard to application procedures, hiring, advancement, discharge, compensation, training or other terms, conditions and privileges of employment. The City complies with all federal and state laws concerning the employment of persons with disabilities and acts in accordance with regulations and guidance issued by the Equal Employment Opportunity Commissions (EEOC).

#### **ELIGIBILITY**

The City will engage in the interactive process to find reasonable accommodation(s) for qualified individuals with a disability to enable them to perform the essential functions of a job, unless doing so causes an undue hardship to the City, or a direct threat to these individuals or others in the workplace, or the public, and the threat cannot be eliminated by reasonable accommodations.

When an individual with a disability is requesting accommodations and can be reasonably accommodated without creating an undue hardship or causing a direct threat to workplace safety and/or public safety, he or she will be given the same consideration for employment as any other employee or applicant.

All employees are required to comply with City safety standards. Current employees who pose a direct threat to the health and safety of themselves or other individuals in the workplace or

the public will be placed on appropriate leave. The City will make a lawful and reasonable decision in regard to continued employment.

Individuals who are active illegal drug users are excluded from coverage under the City's ADA Reasonable Accommodation Policy.

The City's Human Resources (HR) Department, through its ADA Coordinator, is responsible for implementing this policy, including requests for and resolution of reasonable accommodations, safety and direct threat determinations, and undue hardship issues. All requests for reasonable accommodations must be presented to the HR Department, the Departmental HR Manager, or the employee's supervisor who will forward the request to the HR Department.

## **DEFINITIONS**

**"Direct Threat"** means a significant risk to the health, safety or well-being of individuals or others when this risk cannot be eliminated by reasonable accommodations.

**"Disability"** means a permanent 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.

**"Essential functions of the job"** refers to those job activities that are determined by the City to be essential or core to performing the job; these functions cannot be modified.

**"Major bodily functions"** is a term included in the Americans With Disabilities Act Amendments Act (ADAAA), may include physical or mental impairments such as any physiological disorder or condition, cosmetic disfigurements, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs) cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic lymphatic, skin and endocrine. Also covered are any mental or psychological disorders, such as intellectual disability (formerly termed "mental retardation") organic brain syndrome, emotional or mental illness, and specific learning disabilities.

**"Major Life activities"** include the following: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working.

**"Qualified individual"** means an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.

**"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; part-time or modified work schedules; reassignment to a vacant position;

acquisition; or modification of equipment or devices; appropriate adjustment or modifications of examinations, training materials or policies; the provision of qualified readers or interpreters; and other similar accommodations for individuals with disabilities.

**“Reassignment”** is non-promotional placement into a vacant position for which the individual qualifies. Reassignment may be provided to employees who can no longer perform the essential functions of their regular job due to a disability but are able to work and perform the essential functions in another job.

**“Substantially limiting”** In accordance with the ADAAA final regulations, the determination of 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. Some examples of these types of impairments may include epilepsy, hypertension, asthma, diabetes, 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 EEOC final ADAAA regulations.

**“Undue Hardship”** is an action that is unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the City.

The examples provided in the above definitions are not meant to be all-inclusive and should not be construed as such. They are not the only conditions considered to be disabilities, impairments or reasonable accommodations covered by this policy.

## **GUIDELINES AND PROCEDURES:**

### **I. REASONABLE ACCOMMODATIONS APPLIES TO THREE ASPECTS OF EMPLOYMENT**

- A. To assure equal opportunity in the employment process
- B. To enable a qualified individual with a disability to perform the essential functions of a job
- C. To enable an employee with a disability to enjoy equal benefits and privileges of employment

### **II. REQUESTING AND PROVIDING REASONABLE ACCOMMODATIONS**

- A. Any applicant for employment or current employee may request a reasonable accommodation by contacting the City’s Human Resources Department, ADA Coordinator. The ADA Coordinator will request the name, address and telephone/contact information of the person requesting the accommodation. The request must indicate the specific limitations and the type of accommodations requested, with an explanation of how the accommodation will allow the performance of the essential functions of the position or the participation in the subject activity.

Should an applicant or employee require assistance in the interactive process, a representative may participate so as to facilitate the efficient and effective communication and collection of information relative to the request for reasonable accommodation.

- B. Verification of the disability by the requester's physician, medical provider or vocational/rehabilitation specialist may be required. If medical verification is required, the person requesting the accommodation must sign an authorization for the release of medical/health care information. Any medical and health documentation will be collected and maintained on separate forms and in separate, locked files.
- C. When a qualified individual with a disability has requested an accommodation, the ADA Coordinator, shall, in consultation with the individual:
  - 1. Discuss the purpose and essential functions of the particular job involved. (Completion of a step-by-step job analysis may be necessary)
  - 2. Determine the job-related limitation
  - 3. Identify the potential accommodations and assess the effectiveness each would have in allowing the individual to perform the essential functions of the job
  - 4. Select and implement the accommodation that is the most appropriate for both the individual and the City. While an individual's preference will be given consideration the City may choose among equally effective accommodations and may choose the one that is less expensive or easier to provide.
  - 5. The ADA Coordinator will work with the employee to obtain technical assistance, as needed.
  - 6. The ADA Coordinator will provide a decision to the employee within a reasonable amount of time
  - 7. If an accommodation cannot overcome the existing barriers or if the accommodation would cause an undue hardship on the operation of City business, the employee and the ADA Coordinator shall work together to determine whether reassignment may be an appropriate accommodation.

### **III GENERAL CONSIDERATIONS**

- A. The determination whether to provide an accommodation is made on a case-by-case basis. This is an individual process through which the ADA Coordinator, the individual and the department discuss and arrange for the necessary and reasonable accommodation.
- B. The City may not compel an individual with a disability to use an accommodation that is not requested or needed by an individual, nor necessary to perform the job.
- C. Employees with disabilities who refuse an accommodation may no longer be considered qualified if they are unable to perform all of the essential functions of the job without the accommodation.
- D. The City's duty to initiate the process may arise when a need for accommodation is known, including when a qualified individual applies for the employment or an

employee's disability or job changes. Supervisors must notify HR immediately when they become aware of the need for restrictive duty.

- E. Reasonable accommodation items that are purchased by the City are the property of the City.
- F. Employees who are temporarily unable to perform the essential functions of their position due to medical restrictions that cannot be reasonably accommodated may be eligible for a transitional duty assignment as outlined in the City's "Transitional Duty Policy".

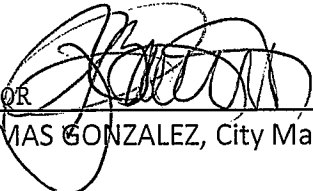
#### **IV REASSIGNMENT**

- A. Employees who cannot perform the essential functions of their job with or without reasonable accommodation may be eligible for reassignment to a vacant position.
- B. To be eligible for a job reassignment, the employee must meet the minimum qualifications for the position. The City has no obligation to train the employee to become qualified for reassignment to another City position.
- C. Reassignment offers employees the opportunity to fill non-promotional job vacancies with the City.

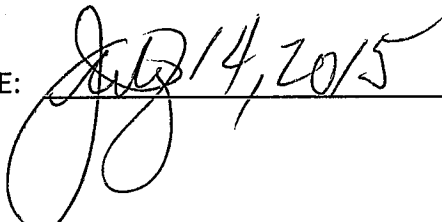
#### **V. RETURN FROM MEDICAL LEAVE OR ABSENCE**

- A. An employee who returns from a medical leave or absence must provide to the City a release from the employee's health care provider stating whether the employee can return to work with or without permanent restrictions. If the health care provider indicates that the employee has one or more restrictions because of a disability that requires reasonable accommodations, the City and employee will engage in the interactive process set forth herein to determine what reasonable accommodations are needed so that the employee can perform the essential functions of the job with or without accommodations. If, because of restrictions identified by the employee's health care provider, a return to the same position held prior to the absence is not possible because the restrictions prevent the employee from performing the essential functions of the employee's job, with or without accommodations, the employee may be considered for reassignment.

APPROVED BY:

FOR   
TOMAS GONZALEZ, City Manager

DATE:

  
July 14, 2015