

## ORDINANCE 9779

TO PROHIBIT DISCRIMINATION AGAINST DISABLED PERSONS; TO ASSURE THAT NO QUALIFIED DISABLED PERSON SHALL, ON THE BASIS OF DISABILITY, BE EXCLUDED FROM EMPLOYMENT BY GRANTEES OF CITY'S FINANCIAL ASSISTANCE; BE DENIED THE BENEFITS OF, OR OTHERWISE BE SUBJECTED TO DISCRIMINATION UNDER ANY PROGRAM OR ACTIVITY OPERATED OR FUNDED BY THE CITY OF EL PASO OR GRANTEES OF CITY'S FINANCIAL ASSISTANCE; PROHIBITING CERTAIN UNLAWFUL PRACTICES AGAINST DISABLED PERSONS; PROVIDING FOR REMEDIAL AND VOLUNTARY ACTIONS; AMENDING CHAPTER 2.84 OF THE EL PASO CITY CODE, "HANDICAPPED GRIEVANCE COMMITTEE" AND ESTABLISHING COMPLIANCE AND ENFORCEMENT PROCEDURES ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

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### DECLARATION OF POLICY

- A. It is the policy of the City of El Paso to ensure that no qualified person shall, on the basis of disability, be excluded from participation in or be denied the benefits of any program or activity receiving financial assistance from or operated by the City of El Paso, or be subjected to discrimination with respect to employment by Grantees of the City of El Paso's financial assistance.
- B. This policy recognizes the rights of each qualified disabled person to fully participate and receive the benefits of all programs and activities receiving financial assistance from or being operated by the City of El Paso; and further, that the denial of such rights based on disability is detrimental to the health, safety and welfare of the residents of the City of El Paso which is within the power and scope of responsibility of the City of El Paso to prohibit.
- C. This ordinance does not cover housing nor does it pertain to the Civil Service System, personnel or employment practices or decisions, which are solely within the jurisdiction of the Civil Commission.

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### II. DEFINITIONS

- A. "Accessible" when used with respect to the design, construction or alteration of a facility or a portion of a facility (other than individual dwelling unit) means that facility or portion of facility when designed, constructed or altered, can be approached, entered, and used by

individuals with physical disabilities, in accordance with the “Uniform Federal Accessibility Standards (Fed Stds-795, April 1, 1988).

- B. “Accessible” when used with respect to programs or activities means the availability of services or devices that enable persons with disabilities including impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of such programs or activities.
- C. “Alteration” means any change in a facility or its permanent fixtures or equipment. It includes, but is not limited to remodeling, renovation, rehabilitation, reconstruction, changes or rearrangements in structural parts and extraordinary repairs.
- D. “City” means the City of El Paso.
- E. “Facility” means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in the property.
- F. “Director” means the Director of the Department of Community and Human Development or the Director’s designees.
- G. “Disabled” means having a physical or mental impairment which substantially limits one or more major life activities; having a record of such impairment; or, being regarded as having such an impairment. Current drug users, alcoholics or persons with currently contagious diseases are not included. specified herein, the phrase:
  - 1. “Physical or mental disability” means:
    - a. Any physiological disorder of condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs including but not limited to hearing and sight; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
    - b. Any mental or psychological disorder, such as mental illness, and specific learning disabilities.
  - 2. “Major life activities” means functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

3. “Having a record of such impairment” means has a history of, or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities.
  4. “Being regarded as having an impairment” means:
    - a. Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a Grantee or city as constituting such a limitation;
    - b. Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or
    - c. Has none of the impairments defined is treated as having such an impairment.
- H. “Discrimination” means any direct or indirect exclusions, distinctions, segregation, limitation, refusal, denial, or any other differentiation in the treatment of a disabled person or persons solely on account of disability.
- I. “Financial assistance” means any grant, or any other arrangement whereby the City provides assistance in the form of:
1. Funds;
  2. Services of City personnel;
  3. Real or personal property or any interest in or property, including transfers of leases of such property for less than fair market value or for reduced consideration.
- J. “Grantee” means any public or private agency, institution, organization, or other entity or any person to which financial assistance is extended directly or indirectly by the City.
- K. “Program or activity” means all of the operations of the City or its Grantees.
- L. “Qualified disabled person” means:
1. With respect to employment, a disabled person Who, with reasonable accommodation, can perform the essential functions of the job in question;
  2. With respect to programs or activities, a disabled person who meets the essential eligibility requirements for the receipt of benefits or services

from such programs or activities.

- M. “Reasonable Accommodation for employment” means:
1. Making facilities used by employees readily accessible to and usable by disabled persons; and job restructuring, job relocation, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

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### **III. PROHIBITIONS**

- A. No qualified disabled person shall be denied the benefits of, be excluded from participation in, or be otherwise discriminated against by any program or activity receiving financial assistance from or operated by the City, solely because of disability.
- B. No qualified disabled person shall be subject to discrimination in employment by any Grantee solely on the basis of disability.
- C. Grantees shall not participate in contractual or other relationships that have the effect of subjecting qualified disabled applicants or employees to discrimination. The relationships include but are not limited to relationships with employment and referral agencies, with labor unions, With organizations providing or administering fringe benefits to employees, and with organizations providing training and apprenticeship programs.

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### **IV. ENFORCEMENT**

#### **A. ASSURANCES.**

1. Effective from the date of adoption of this ordinance, all Grantees shall submit an Assurance at the time of filing any application or other request with the City for financial assistance that the Grantee will comply with this ordinance.
  - a. The assurance shall list each facility, program and activity of the Grantee.

- b. The Assurance shall indicate as to each facility, program and activity whether or not it is accessible to qualified disabled person or persons.
  - c. As to non-accessible facilities, programs and activities, the Assurance shall state the corrective actions necessary to make the facilities, programs and activities accessible and the time required to complete such corrective actions.
  - d. As to employment, the Assurance shall affirm that no qualified disabled person shall be subjected to discrimination, solely on the basis of disability, and that the Grantee shall make reasonable accommodation to the known disability limitations of an otherwise qualified disabled applicant or employee.
2. The Director shall make written findings that the Assurance of a prospective Grantee is adequate before recommending approval of any application for financial assistance.
  3. Each contract between the City and Grantee shall contain a clause which requires compliance with this ordinance and incorporates the commitments of the Grantee contained in the Assurance.

**B. SELF-EVALUATION.**

1. All Grantees shall within ninety (90) days of the effective date of this ordinance, after consultation with interested persons, including disabled persons or organizations representing disabled persons:
  - a. Evaluate its current policies and practices to determine whether, in whole or in part, they do not or may not meet the requirements of this ordinance; and
  - b. Modify any policies, practices and facilities discrimination revealed by the self-evaluation.
  - c. In the case of structural changes, develop a transitional plan setting forth the steps necessary to complete such changes and alterations within a period not to exceed one hundred eight (180) days from the effective date of this ordinance.
    - (1) The transitional plan shall contain, at a minimum, identification of physical barriers that limit

accessibility; description of methods to make facilities accessible; time schedule for taking each necessary step; costs of changes; name of person responsible for implementation of plan.

- (2) The development of the transitional plan will be in consultation with interested persons, including disabled persons or organizations representing disabled persons.
  - (3) The requirement for compliance within one hundred eighty (180) days may, in the case of major structural changes be extended for a reasonable time for good cause shown. A request for such extension must be contained in the Self—Evaluation and shall be considered based upon such factors as: size of program or activity, number of facilities, size of budget, cost of structural changes or modifications, and nature of structural changes or modifications.
- d. The results of the self-evaluation and the transitional plan, if any, shall be submitted to the Director for approval. The decision of the Director shall be final; however, any interested person may appeal the decision of the Director to the City Council.

**C. NOTICES.**

1. Each Grantee shall take appropriate initial and continuing steps to notify participants, beneficiaries and applicants, including those with impaired vision or hearing, that Lt does not discriminate on the basis of disability. At a minimum, such notices shall be posted in an appropriate publication or otherwise made readily available to interested persons.
2. Each Grantee shall also post or provide Copies of the Self—Evaluation required by the preceding sub-section to all interested persons or organizations.

**D. GRIEVANCE PROCEDURES**

1. Any person who believes that they have been discriminated against in violation of this ordinance may file a complaint with the Handicapped Grievance Committee (Section 2.84.010, El Paso).

2. Section 2.84.020 is amended by deleting the second sentence and inserting in its place the following: “The Director of Community and Human Development is designated to coordinate the city’s efforts to comply with federal anti-discrimination regulations and shall serve as an ex officio member of the committee and as its chairman with all rights and duties of an appointed member.”

PASSED AND APPROVED this 8<sup>th</sup> day of August, 1989

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