



ADMINISTRATIVE REGULATION

Effective Date: December 1, 2015

Administrative Regulation: 2-6

Revision Date: November 25, 2015

Supersedes: May 12, 2012

Approved By: Arthur A. Anselene

Subject: **Americans with Disabilities Act**

I. Policy:

The purpose of this Administrative Regulation is to outline the procedures by which the Town of Herndon will comply with and meet the Americans with Disabilities Act (ADA) of 1990 and the ADA Amendment Act of 2008 to provide a fair resolution to any complaint of discrimination submitted by the citizens, employees or applicants of the Town.

II. Applicability:

The Americans with Disability Act of 1990 prohibits private employers, state and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in employment, public services, public accommodations, transportation and telecommunications.

An individual with a disability must also be qualified to perform the essential duties of the job with or without reasonable accommodation. "Qualified individual with disabilities" means persons who:

1. Have a physical or mental impairment that substantially limits one or more major life activities;
2. Have a record of such an impairment; or
3. Are regarded as having such an impairment.

III. Implementation:

The Town of Herndon has two coordinators to address concerns and accommodation requests. For public concerns contact the Director of Parks and Recreation at 703-787-7300. For employee and applicant inquiries contact the Director of Human Resources at 703-435-6817.

Persons in need of reasonable accommodation(s), should report in writing any request for reasonable accommodation. An action request form is attached to this Administrative Regulation.

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Persons in need of reasonable accommodations are responsible for:

1. Reporting in writing to the designated coordinator any request for reasonable accommodation.
2. Providing the Town with the medical documentation it needs to decide whether any accommodation is required.
3. Providing suggestions concerning potential accommodations, with medical documentation if required.

The ADA Coordinators are responsible for:

1. Evaluating what opportunities exist for the delivery of a reasonable accommodation for its programs, services, activities and employment.
2. Notifying the employees or the public of the Town's efforts to provide reasonable accommodations.
3. Completing investigations and disseminating the findings, to the involved parties, of any allegations that indicate discrimination may have occurred.

The designated coordinator will make the final determination of whether the Town can provide reasonable accommodations without undue hardship.

Reasonable Accommodations may include:

1. Acquiring or modifying equipment or devices
2. Providing readers and interpreters
3. Modifying work sites to provide wheelchair access
4. Making the building/workplace accessible to and usable by people with disabilities

The coordinator will review and evaluate accessibility in several ways including but not limited to:

1. Relocating the program or activity to an accessible facility
2. Provide the activity, service or benefit in another manner that meets ADA requirements, or
3. Make modifications to the building to provide accessibility

The focus of the coordinators and the Town of Herndon is to provide equal opportunities to people with disabilities to participate in the variety of services and programs that the town offers.

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IV. Electronic Personal Assistive Mobility Devices and Other Power-driven Mobility Devices in Town Facilities:

Those individuals with mobility disability may contact the respective coordinator to achieve program accessibility. The town accepts electronic personal assistive mobility devices (EPAMD) or other power-driven mobility devices (OPDMD).

The Town of Herndon reserves the right to ask a person using an OPDMD to provide credible assurance that the mobility device is required because of disability. Credible assurance includes a valid, State-issued disability parking placard or card or other State-issued proof of disability. The Town of Herndon shall also accept as credible assurance a verbal representation, not contradicted by observable fact, that the OPDMD is being used for a mobility disability. The Town of Herndon will not ask about the nature and extent of an individual's disability.

On-going staff training will include instruction on the types of OPDMDs that can be accommodated, the rules for obtaining credible assurance that the device is being used because of a disability, and the rules for operation of the devices within a facility.

V. Service Animals in Town Facilities:

1. Definitions:

In accordance with 28 CFR Sec. 35.101 and the Department of Justice revised final regulations implementing the ADA, the Town of Herndon permits service animals access in all its public areas, in accordance with federal and state law. A service animal may accompany the patron at all times and everywhere in all town facilities, except where animals are prohibited for safety reasons (e.g. public pools and saunas).

A service animal is any guide dog, signal dog or miniature horse that has been individually trained to do work or perform tasks for people with disabilities. A service animal is not a pet, but can perform some of the functions and tasks that an individual with a disability cannot personally perform.

Animals are considered "service" animals under ADA if they meet this definition, regardless of whether they have been licensed or certified by a state or local government. Therapy animals are not considered service animals and therefore are not permitted.

2. Procedure:

a. A service animal is permitted to accompany patrons with disabilities at all times and everywhere in all town facilities, except as noted above and below. Patrons with service animals shall not be segregated from other patrons.

b. Service animals must be house broken and must be leashed or otherwise harnessed at all times, unless the patron is unable, by virtue of the disability, to use any type of tether. In this case, the service animal must be otherwise under the patron's control by

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voice controls, signals, or other effective means.

c. All service animal owners must abide by current town and county ordinances pertaining to licensing and vaccination requirements for service animals. It is the responsibility of the owner or user of the animal to know about these ordinances and laws.

d. If it is unclear that an animal is a service animal, staff members may only ask the individual with a disability the following two questions:

- i. Is the animal required because of the patron's disability?
- ii. If yes, what is the work of the service animal?

e. The Town of Herndon shall not ask or require a patron with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets.

f. Patrons are responsible for the care of their service animal and the proper disposal of the animal's waste.

3. Exceptions:

a. A service animal may be excluded from a facility if that animal's behavior poses a direct threat to the health and safety of others.

b. If a service animal is excluded from a facility, the patron with a disability will be allowed to use the facility without having the service animal on the premise. The service animal may be permitted in the facility when steps such as refresher training have been taken to mitigate the behavior.

VI. Complaint

Any person who believes she or he has been subjected to discrimination on the basis of disability may file a complaint pursuant to the following procedure. An action request form to describe your complaint is attached to this administrative regulation. It is against the law for the Town of Herndon to retaliate against anyone who files a complaint or cooperates in the investigation of a complaint.

Complaint Procedure:

1. Complaints can be filed orally, or in writing and should contain:

- a. The name, address and telephone number of the individual or representative filing the complaint; complaints filed on behalf of third parties must describe or identify the alleged victims of the discrimination.

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- b. An explanation of the discrimination or denial of service;
 - c. The date the alleged violation(s) occurred;
 - d. Corrective action that is sought;
 - e. Signature of the person filing the complaint.
2. Complaints may also be filed through a face to face meeting with the ADA Coordinator.
 3. Complaints must be submitted to the ADA Coordinator as soon as possible but no later than sixty (60) calendar days after the date the person filing the complaint becomes aware of the alleged discriminatory action.
 4. The ADA Coordinator, or designee, will conduct an investigation of the complaint. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint.
 5. The ADA Coordinator, or designee, will maintain the files and records of the Town of Herndon relating to such complaints.
 6. The ADA Coordinator, or designee, will issue a written decision to the person filing the complaint after the completion of the investigation.
 7. The person filing the complaint may appeal the decision of the ADA Coordinator by writing to the Town Manager within fifteen (15) calendar days of receipt of the ADA Coordinator's decision.

Nothing in this complaint procedure shall be construed to prevent an individual from pursuing other remedies including filing a formal complaint with other state or federal agencies. This procedure also does not preclude the individual from filing a lawsuit in federal or district court.

The Town will address and seek to reasonably accommodate ADA requests, in an expeditious manner.

VII. Communication to the Public:

This policy is made continually available to the general public via the Town's website.


Arthur A. Anselene
Town Manager