

RESOLUTION 23-023

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT TOWNSEND,
WASHINGTON, DESIGNATING AN AMERICANS WITH DISABILITIES ACT
COORDINATOR AND ADOPTING AN AMERICANS WITH DISABILITIES ACT
GRIEVANCE PROCEDURE**

WHEREAS, the Americans with Disabilities Act (*ADA*) - Public Law 101-336 was enacted on July 26, 1990; and,

WHEREAS, the Americans with Disabilities Act, Section 202, states, in part, that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied benefits of the services, program, or activities of a public entity, or be subject to discrimination by any such entity"; and,

WHEREAS, Section 504 of the Rehabilitation Act states, in part, that "no otherwise qualified handicapped individual. . . shall solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance"; and,

WHEREAS, the law stipulates that certain public jurisdictions will establish a complaint procedure to resolve grievances in a prompt and equitable manner and strongly encourage the use of dispute resolution mechanisms other than the federal court system; and,

WHEREAS, the guiding principles for the establishment of the City of Port Townsend grievance procedure are:

- 1) To promote cooperation between a complainant and the City, rather than fostering an adversarial environment
- 2) To take full advantages of existing expertise and resources available in the City of Port Townsend, the grievance procedure will incorporate the capacity for both sides to be able to confer with people with expertise.
- 3) To ensure that the procedure in no way disadvantages people with disabilities from their rights and opportunities under Federal law and State law in order to help ensure that people with disabilities will go through the grievance procedure process rather than filing a lawsuit against the City.

WHEREAS, the City Council of the City of Port Townsend encourage citizens to view this grievance procedure as an opportunity to open dialogue between a person with a disability and the City; and,

WHEREAS, the City adopted an ADA coordinator and grievance procedure in Resolution 06-19

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Port Townsend, that the City does hereby establish the following as its Americans with Disabilities Act Grievance Procedure:

Section 1. ADA Coordinator

City of Port Townsend designates that the City Clerk shall act as the City's ADA/504 Coordinator who will coordinate the efforts of the City in order to comply with ADA and/or Section 504.

Concerns, comments and/or complaints should be sent to:

City Clerk Ph: (360) 379-5083
250 Madison Street
Port Townsend, WA 98368

Section 2. Complaint Procedure

This procedure may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities and programs of Port Townsend.

Step 1 – The Written Complaint

A complaint should be in writing, contain the name and address, phone number and e-mail (if available) of the person filing it, and the location, date and a description of the problem or the action alleged to be prohibited by the ADA and/or Section 504(45 CFR Part 84). Alternative means of filing complaints will be made available for persons with disabilities upon request.

A complaint should be filed as soon as possible in the office of the ADA Coordinator, but no later than 15 working days after the person filing the complaint becomes aware of the problem or action alleged to be prohibited by either or both regulations. The ADA Coordinator shall confirm the date of receipt of the complaint to the complainant in writing or via an alternative means if requested.

Step 2 – Meeting with Complainant and Investigation by the ADA Coordinator

Within 15 working days of the receipt of a written complaint, the ADA Coordinator, or their designee, will meet with the complainant to discuss the complaint and shall conduct such investigation of a complaint as may be appropriate to determine its validity. These rules provide for informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to the complaint.

Step 3 – Written Decision

The ADA Coordinator, or that person's designee, shall issue a written decision determining the validity of the complaint and/or the position of the City no later than 15 working days after Step 2 meeting. Alternative means of providing a written decision will be made available for persons with disabilities upon request.

The resolution of any specific grievance will require consideration of varying circumstances, such as the specific nature of the disability; the nature of the access to services, programs, or facilities at issue and the essential eligibility requirements for participation; the health and safety of others; and the degree to which an accommodation would constitute a fundamental alteration to the program, service, or facility, or cause an

undue hardship to the City. Accordingly, the resolution by the City of any one grievance does not constitute a precedent upon which the City is bound or upon which other complaining parties may rely.

Step 4 – Appeal

If the response by the ADA Coordinator does not resolve the issue to the satisfaction of the complainant, the complainant may appeal to the City Manager. The City Manager shall confirm in writing to the complainant the date of receipt of the appeal or confirm via an alternative means if requested. The appeal shall be in writing and received by the City Manager within fifteen (15) working days from the date of the written response.

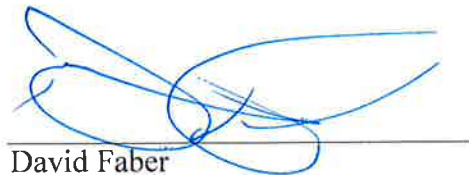
Alternative means of filing an appeal will be made available for persons with disabilities upon request. After receiving the appeal, the City Manager will review it and respond in writing or a format accessible to the complainant as a final resolution of the complaint within fifteen (15) working days. The appeal to the City Manager shall be the final administrative appeal process provided by the City.

BE IT FURTHER RESOLVED that the ADA Coordinator shall maintain the files and records of the City of Port Townsend relating to complaints filed hereunder. The ADA Coordinator may assist persons with the preparation and filing of the complaints, participate in the investigation of complaints, and advise the City Manager, or his/her designee, concerning their resolution.

BE IT FURTHER RESOLVED that these rules shall be liberally construed to protect the substantial rights of interested persons, to meet appropriate due process standards, and to assure the City's compliance with the ADA and Section 504 as stated above.


BE IT FURTHER RESOLVED that ADA grievance procedure and ADA Coordinator designation replaces the procedures and coordinator adopted in City Council Resolution 06-019.

ADOPTED by the City Council of the City of Port Townsend at a regular meeting thereof, held this 20th day of March 2023.



David Faber
Mayor

Attest:



Alyssa Rodrigues
City Clerk

Approved as to form:



Heidi Greenwood
City Attorney