

# TOWN OF WEAVERVILLE AMERICANS WITH DISABILITIES COMPLIANCE POLICY

## Section 1. Purpose and Objectives

It is the policy of the Town to afford equal employment opportunity to all qualified individuals with disabilities as defined in the Americans with Disabilities Act (ADA) and the Americans with Disabilities Act Amendment Act (ADAAA) in all employment-related decisions. As part of this policy, the Town will work to seek reasonable accommodations for applicants in the employment process, qualified employees with disabilities and for applicants with disabilities who have been offered employment.

The Town has long recognized that its employees are its most valuable asset. Accordingly, it is Town policy to support employees and candidates affected by mental or physical impairments, which may limit their opportunities to be productive. It is the Town's intent to provide support and assistance, consistent with the Americans with Disabilities Act and business demands, within reason, to qualified individuals who are disabled. As appropriate, the Town will attempt to eliminate barriers to employment in order to afford all individuals opportunities to pursue available employment to the extent of their abilities and talents.

The cooperation of all employees is expected and necessary to make this policy a reality. Employees with questions about this policy, reasonable accommodation, or who feel they have been treated unfairly because of a disability, perceived disability, or record of a disability should contact the ADA Coordinator as designated in this policy.

In addition to assuring compliance with the ADA in its employment practices, it is the policy of the Town to prohibit discrimination against qualified individuals with disabilities on the basis of disability in the Town's provision of services, programs and activities.

## Section 2. Definitions

**ADA** – Includes collectively the Americans with Disabilities Act of 1990 and the Americans with Disabilities Act Amendment Act of 2008, and any subsequent amendments thereto.

**Communicable disease** – An illness due to an infectious agent or its toxic products which is transmitted directly or indirectly to a person from infected person or animal through the agency of an intermediate animal, host or vector, or through the inanimate environment, pursuant to NCGS 130A-133(1). The term shall include, but is not limited to: acquired autoimmune deficiency syndrome (“AIDS”), AIDS-related complex, human immunodeficiency virus (“HIV”) infection, hepatitis A, B, or C, and tuberculosis.

**Direct threat to safety** – A significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation.

**Disability** – A person is “disabled” under this policy if that person has a physical or mental impairment that substantially limits him or her in one or more major life activities.

**Essential job function** – The basic job duties that an employee must be able to perform in his or her assigned job, with or without reasonable accommodation. Factors to be considered in determining if a function is essential include: (a) whether the reason the position exists is to perform that function, (b) the number of other employees available to

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perform that function or among whom the performance of the function can be distributed, (c) the degree of expertise or skill required to perform the function, (d) the time spent performing a function, and (e) the consequences of not requiring that an employee perform a function.

***Qualified individual with a disability*** – An employee or candidate with a disability who has the necessary skill, education, experience, and other job-related requirements to perform the essential functions of a position with or without a “reasonable accommodation.”

***Reasonable accommodation*** –

Reasonable accommodation is any modification or adjustment to a job, job schedule or the work environment that will enable a qualified candidate or employee with a disability to participate in the application process or to perform essential job functions, or enjoy other benefits of employment without imposing an undue hardship on the Town or imposing a direct threat of safety to the individual or others in the workplace.

Examples of reasonable accommodation may include modifying existing facilities used by employees readily accessible to and usable by an individual with a disability; restructuring a job; modifying work schedules; acquiring or modifying equipment; providing qualified readers or interpreters; or appropriately modifying examinations, training, or other programs.

Reasonable accommodation may also include reassigning a current employee to a vacant position for which the individual is qualified if the person is unable to do the original job because of a disability even with an accommodation and no other accommodations exist. However, there is no obligation to find or create a position as an accommodation. The Town is not required to lower quality or quantity standards as an accommodation, nor is it obligated to provide personal use items such as glasses or hearing aids. The Town is not required to reallocate essential job functions of a job as a reasonable accommodation.

***Undue hardship*** – The point at which an accommodation would be unduly costly, extensive, substantial or disruptive, or would fundamentally alter the nature or operation of the business.

### **Section 3. ADA Coordinator**

The Town has designated the Town Manager, or designee, to handle issues related to the ADA. All requests for reasonable accommodation, auxiliary communication aids and services, alternative accessible formats for notices, policies, and other information, as well as complaints regarding the Town’s ADA program should be directed to the ADA Coordinator as follows:

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ADA Coordinator  
Weaverville Town Hall  
30 South Main Street  
Weaverville, NC 28787  
828-645-7116  
coordinator@weavervillenc.org

## **Section 4. Complaint Procedures**

Complaints of alleged discrimination on the basis of disability by the Town may be filed by job applicants, employees, and former employees ~~members of the general public~~, by using the grievance procedures set forth in Article XV of the Town's Personnel Policy. Members of the general public who feel that they have been discriminated against on the basis of disability may utilize the Grievance Policy and Procedures adopted by Town Council to file a disability related discrimination complaint.

The grievance procedures shall be distributed to members of the general public upon request for persons with disabilities. Any complaints relating to the ADA shall be considered confidential and kept separate from an employee's personnel file.

## **Section 5. No Retaliation**

Individuals who oppose any act or practice that is unlawful under any title of the ADA, or who make a charge, testify, assist, or participate in any investigation, proceedings, or hearing under the ADA will not be retaliated against, nor will they be coerced, intimidated, threatened, or interfered with in the exercise or enjoyment of any ADA right. Job applicants or employees who may have a friend, associate, or family member with a disability are also covered by this ADA nondiscrimination policy pursuant to the ADA.

## **Section 6. Communicable Diseases**

The Town shall not exclude from employment, participation in programs, or receipt of services individuals with communicable diseases or a related condition unless a determination is made by the Town Manager that such individual presents a direct threat or significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation. It is the policy of the Town to consider the employment status or participation of an individual with a communicable disease on an individual case-by-case basis and in accordance with the ADA.

## **Section 7. Confidentiality of Medical Records**

All information obtained by the Town regarding an applicant's or employee's disability, medical condition, request for reasonable accommodation, or workers' compensation shall be maintained on separate forms and in medical files which are separate from the regular personnel files. All medical files and records will be treated as confidential. Access to medical information shall be given for the following reasons only:

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- a. To supervisors who may be told only about work restrictions for an applicant or employee;
- b. To first aid and safety officials where emergency treatment might be required;
- c. To government officials charged with enforcement of disability laws, including the ADA; and
- d. Human Resources staff and legal counsel on an as-needed basis.

## **Section 8. Reasonable Accommodation**

It is the policy of the Town to provide reasonable modifications or adjustments to services, programs, or activities, to avoid discrimination on the basis of disability, unless the modification would result in a fundamental alteration or would impose an undue financial or administrative burden. The Town will make all reasonable efforts to provide appropriate services and aids so that people with disabilities receive effective communication.

The Town will make reasonable accommodations whenever necessary for all qualified employees or candidates for employment with disabilities (as defined by applicable law), provided that:

1. The individual is otherwise qualified to safely perform the essential job functions of the job, and
2. Such accommodations do not impose undue hardship on the Town.

Where a job or work assignment is subject to health or medical standards required for assignments or deployments in support of the military, this policy does not require employment of an employee or candidate who cannot satisfy those standards.

- A. **Requesting an Accommodation – Employee** – If an employee has a disability that requires an accommodation in order to perform the essential functions of his or her job, or otherwise enjoy the benefits and privileges of employments, he or she must initiate a request for accommodation by contacting his or her direct supervisor, the Human Resources Officer, or Town Manager, and identify an adjustment or change at work that is needed because of a disability.
- B. **Requesting an Accommodation – Candidate** – If a candidate for employment has a disability that requires an accommodation in order to apply for a job, he or she must initiate the request for accommodation by contacting Human Resources Officer or Town Manager and identifying an adjustment or change in the application or system that is needed because of a disability.
- C. **Participation in the Interactive Process** –
  - i. An employee seeking an accommodation under this policy will engage in an interactive dialogue (the “interactive process”) with his or her supervisory, department head, and Human Resources Officer, to

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identify an accommodation that will allow the employee to perform the essential functions of the job effectively or engage in other benefits and privileges of employment that are enjoyed by similarly situated employees without disabilities.

- ii. If the Town is able to accommodate the request as a result of the interactive process, without the need for supporting medical documentation or other information, the employee does not need to proceed with any further steps outlined in this process.
  - iii. The ADA Coordinator has the responsibility to secure a final decision about questions regarding the implementation of an accommodation related to whether the medical condition is a qualifying disability under the ADA. In the event that additional medical information is needed to determine what accommodations may be necessary the ADA Coordinator will secure a release of medical information from the employee in order to obtain the medical information that is needed to make such a determination.
  - iv. The employee must cooperate with Human Resources in submitting necessary medical documentation and/or providing a release of medical information that permits HR to communicate with the employee's health care provider(s). The employee must return all forms and responsive information within 15 days of the request. Processing the request for accommodation may not proceed until all required forms have been completed and returned to Human Resources.
  - v. HR will review the completed request for accommodation forms received from the employee and/or the employee's health care provider. If the information provided is incomplete or requires further clarification, HR may request additional information from the employee or his or her health care provider.
- D. **Determination** – If, based on medical and other information provided by the employee and/or his or her health care provider, the employee is determined to be a qualified individual with a disability, the ADA Coordinator will notify the employee, supervisor, department head and Town Manager. The ADA Coordinator will work with the employee and the department head to identify and discuss reasonable accommodations that will enable the employee to perform the essential functions of the job or to participate in the same benefits and privileges of employment enjoyed by similarly situated employees without benefits. In instances where there is no reasonable accommodation that enables the employee to perform the essential functions of the job, including unpaid leave and assignment to a vacant position, the employee may be terminated.

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- E. Responsibilities – Employees/Candidates** – Employees and candidates with a disability that interferes with their ability to apply for a job, perform their essential job functions or otherwise enjoy the benefits and privileges of employment that are available to other similarly situated employees without disabilities, and who desire an accommodation, must follow the process set forth above. The employee or candidate who requests an accommodation has the responsibility to submit all required documentation on a timely basis and to remain engaged in the interactive process with the Town while a determination is being made. It is the employee’s responsibility to work with his or her supervisor/department head, ADA Coordinator and qualified health care professional to review and complete all forms required. Any failure by the employee to supply the Town with all relevant and requested medical information or to otherwise meaningfully cooperate in the interactive process may result in the Town’s denial of an accommodation or delay in the process.
- F. Responsibilities – Management** – The Town Manager and all department heads are responsible for ensuring that all employees under their supervision are fully aware of the Town’s reasonable accommodation policy and equal employment opportunity and non-discrimination policy. When an employee requests an accommodation, supervisors and department heads must participate in the interactive process with the employee to determine if a reasonable accommodation can be made, with or without seeking additional information about the employee’s medical condition.
- If the ADA Coordinator determines that an employee’s medical condition is a qualifying disability under the ADA, supervisors and department heads must continue to work with the employee to identify existing reasonable accommodations that will enable the employee to perform the essential functions of his or her job.
- G. Responsibilities – ADA Coordinator** – The ADA Coordinator is responsible for determining whether an individual is entitled to an accommodation under the terms of this policy, assisting in the interactive process to identify reasonable accommodations as necessary, and informing employees of their rights and obligations pursuant to this policy. The ADA Coordinator is responsible for ensuring appropriate confidentiality of employees’ and candidates’ medical information, consistent with Town policy and state and federal law.

## **Section 9. Violations**

Any employee found to be in violation of this policy will be subject to prompt disciplinary action under the Town’s Personnel Policy, up to and including dismissal.

## **Section 10. Adoption and Effective Date**

This policy has been amended and restated by Town Council, is effective immediately, and shall be in full force and effect until such time as it is amended or repealed.

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AMERICANS WITH DISABILITIES  
COMPLIANCE POLICY**

**ADOPTED BY** the Weaverville Town Council on the 27th day of April, 2020.

**TOWN OF WEAVERVILLE**

By:   
Allan P. Root, Mayor

**ATTESTED:**

By:   
Derek K. Huninghake, Clerk