

RESOLUTION 2012-299

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PARKER, FLORIDA ADOPTING PROCEDURES AND POLICIES FOR SECTION 504 COMPLIANCE; REPEALING ALL RESOLUTIONS IN CONFLICT HERewith AND RECITING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PARKER, FLORIDA AS FOLLOWS:

Section 1. It is the policy of the City of Parker ("City") that discrimination against individuals from participation in or from receiving benefits from any program or activity receiving federal financial assistance from the Department of Housing and Urban Development ("HUD") is prohibited.

A. Applicability. This Section 504 Compliance Policy establishes procedures and guidelines that shall be used to effectuate compliance with nondiscrimination based on handicap to the end that no otherwise qualified individual with handicaps in the United States shall, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance from the Department of Housing and Urban Development ("HUD"). Compliance with Section 504 does not assure compliance with requirements for

accessibility by physically-handicapped persons imposed under the Architectural Barriers Act of 1968. All HUD federally financed activities shall be accomplished in compliance with applicable state and federal laws.

B. Section 504 Laws and Regulations. Laws relative to nondiscrimination based on handicap in federally assisted programs of HUD, in general, may be found in Section 504 of the Rehabilitation Act of 1973 (as amended), Section 109 of the Housing and Community Development Act of 1974 (as amended), and 24 C.F.R., Part 8. The provisions of these nondiscriminatory procedures shall not be construed to conflict with or supercede the requirements of any other applicable state or federal laws or regulations. In regard to programs or activities in connection with the Community Development Block Grants ("CDBG"), the HUD grant administration regulations relating to nondiscriminatory practices are promulgated in the Uniform Federal Accessibility Standards ("UFAS"). This document, which sets standards for facility accessibility by physically handicapped persons for federally funded facilities, programs, and/or activities, is hereby incorporated by reference. Future state or federal regulations applicable

to nondiscriminatory practices under the CDBG program shall supercede and/or supplement this policy.

C. Definitions.

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

(2) "Accessible" when used with respect to design, construction or alteration of an individual dwelling unit, means that the unit is located on an accessible route and when designed, constructed, altered, or adapted can be approached, entered, and used by individuals with physical handicaps.

(3) "Accessible Route" means a continuous unobstructed path connecting accessible elements and spaces in a building or facility that complies with the space and reach requirements of applicable standards prescribed by 24 C.F.R. Part 8, Section 8.32.

(4) "Adaptability" means the ability of certain elements of a dwelling unit, such as kitchen counters, sinks, and grab bars, to be added to, raised, lowered, or otherwise altered, to accommodate the needs of persons with or without handicaps, or to accommodate the needs of persons with different types or degrees of disability.

(5) "Auxiliary Aids" means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of programs or activities receiving federal financial assistance (i.e., readers, brailled materials, audio recordings, telephone communication devices for deaf persons (TTD's), interpreters, etc.).

(6) "Individual With Handicaps" means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment.

(7) "Qualified Individual With Handicaps" means:

(a) with respect to employment, an individual with handicaps who, with reasonable accommodation, can perform the essential functions of the job in question; and

(b) with respect to any non-employment program, an individual with handicaps who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program activity that the City can demonstrate would result in a fundamental alteration in its nature; or

(c) with respect to any other non-employment program or activity, an individual with handicaps who meets the essential eligibility requirements for participation in, or receipt of benefits from that program or activity.

(8) "Undue Hardship" means financial or administrative burdens which would be imposed on the operation of the City program. Factors to be considered include:

- (a) the overall size of the City program with respect to the number of employees, number and type of facilities, and the size of the budget;
- (b) the type of the City operation, including the composition and structure of the City workforce; and
- (c) the nature and cost of the accommodation needed.

Section 2. Communications

A. Auxiliary Aids. The City shall furnish appropriate aids where necessary to afford an individual with handicaps an equal opportunity to participate in, and enjoy the benefits of, a program or activity receiving federal financial assistance. The City is not required to provide individually prescribed devices or other devices of a personal nature. Where the City communicates with applicants and beneficiaries via telephone, telecommunication devices for deaf persons (TDD's) shall be used. The telephone number to utilize the TDD is 850-871-4104. This is not a dedicated circuit, however employees who normally answer this line are familiar with TDD tones and will immediately switch the line to the TDD receive

mode. The City will adopt and implement procedures to ensure that interested persons (including persons with impaired vision or hearing) can obtain information concerning the existence and location of accessible services, activities, and facilities. Mobility impaired persons in wheelchairs should call ahead for assistance; blind individuals should call ahead for escorts; and deaf persons should call ahead for an interpreter (persons schooled in sign language). In brief, if the disabled persons calls the City prior to the event and communicates to a City employee the particular problem which he or she has, assistance will be provided accordingly. However, Section 504 does not require the City to take any action that the City can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens.

Section 3. Employment.

A. General Prohibitions. No qualified individual with handicaps shall, solely on the basis of handicap, be subjected to discrimination in employment under any program or activity that receives federal financial assistance from HUD.

B. Reasonable Accommodation. The City shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant with handicaps or employee with handicaps, unless the City can demonstrate that the accommodation would impose an undue hardship on the operation of its program. The City may not deny any employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

C. Employment Criteria. The City will not use any employment test or other selection criterion that screens out individuals with handicaps nor make any pre-employment inquiry of an applicant to determine whether the applicant is an individual with handicaps or to the nature or severity of a handicap. The City may, however, make pre-employment inquiry into an applicant's ability to perform job-related functions.

Section 4. Program Accessibility.

A. General Requirements. No qualified individual with handicaps shall, because the City facilities are inaccessible to or unusable by individuals with handicaps,

be denied the benefits of, be excluded from participation in, or other wise be subjected to discrimination under any program or activity that receives federal financial assistance.

B. Non-Housing Facilities. New non-housing facilities will be designed and constructed to be readily accessible to and usable by individuals with handicaps. Alterations to existing non-housing facilities shall to the maximum extent feasible, be made to make them more readily accessible to and usable by individuals with handicaps. The City shall operate each non-housing program or activity receiving federal financial assistance so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with handicaps.

(1) Methods. The City may comply with the requirements of this section through such means as location of programs or services to ensure accessible facilities or accessible portions of facilities, assignment of aides to beneficiaries, home visits, the addition or redesign of equipment, changes in management policies or procedures, acquisition or construction of additional facilities, or alterations

to existing facilities. The City is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section.

(2) Historic Preservation Programs or Activities. In meeting Section 504 requirements in historic preservation programs or activities, the City shall give priority to methods that provide physical access to individuals with handicaps. However, in cases where a physical alteration to an historic property would substantially impair "significant historic features" of the property or result in undue financial and administrative burdens, the structural modifications need not be made. In unique cases where this occurs, the precise alterations, impact and reasons for noncompliance shall be completely documented.

(3) Time Period for Compliance. The City shall comply with the obligations established under this section immediately, except that where structural changes in facilities are undertaken, such changes shall be made within the time frames established by

the attached transition plan. If structural changes to non-housing facilities will be undertaken to achieve program accessibility, the City shall develop a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including individuals with handicaps or organizations representing those individuals. A copy of this plan shall be available for public inspection, and at a minimum shall:

- (a) identify physical obstacles in the City facilities that limit the accessibility of its programs or activities to individuals with handicaps;
- (b) describe in detail the methods that will be used to make the facilities accessible;
- (c) specify the schedule for taking the steps necessary to achieve compliance with this section and identify steps that will be taken each year of the transition period;
- (d) indicate the official responsible for implementation of the plan; and

(e) identify the persons or groups with whose assistance the plan was prepared.

Section 5. Enforcement.

A. Assurances. An applicant for federal financial assistance for a program or activity to which Section 504 applies shall submit an assurance to HUD on a form specified by the responsible civil rights official that the program or activity will be operated in compliance with Section 504. In the case of federal financial assistance extended in the form of real property or to provide real property, the assurance will obligate the City for the period during which the real property or structures are used for the purpose for which the federal financial assistance is extended. In the case of federal financial assistance extended to provide personal property, the assurance will obligate the City for the period during which it retains ownership or possession of the property. In all other cases, the assurance will obligate the City for the period during which federal financial assistance is extended.

B. Self-Evaluation. The City shall, as expeditiously as possible, and after consultation with interested persons,

including individuals with handicaps or with organizations representing those individuals:

- (1) Evaluate its current policies and practices to determine whether they do not or may not meet the requirements of Section 504;
- (2) modify any policies and practices that do not meet the requirements of Section 504; and
- (3) take appropriate corrective steps to remedy the discrimination.

The attached Self-Evaluation Plan will be utilized to review each public facility for accessibility and compliance. The results of this evaluation are to be utilized in preparing the Transition Plan.

A recipient that employs fifteen or more persons shall, for at least three years following completion of the evaluation, maintain on file, make available for public inspection, and provide to the responsible civil rights officials, upon request:

- (1) a list of the interested persons consulted; and
- (2) a description of any modifications made and/or any remedial steps taken.

C. Designation of Responsible Employee. A recipient that employs fifteen or more persons shall designate at least one person to coordinate its efforts to comply with Section 504. The responsible person designated is City Clerk and can be reached at telephone number 850-871-4104.

Section 6. Grievance Procedures/Complaint Resolution.

A. General Provisions. A recipient that employees fifteen or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for prompt and equitable resolution of complaints alleging any action prohibited under Section 504.

B. Notice. A recipient that employs fifteen or more persons shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with hearing and vision impairments, and unions and professional organizations that it does not discriminate on the basis of handicap. The notification shall state that the recipient does not discriminate in regards to its federally assisted programs. The notification shall also include an identification of the responsible employee designated to coordinate Section 504 (Section 5, Paragraph C above). The initial

notification shall be made as soon as possible but within 90 days of Policy adoption. Methods of notification may include the posting of notices or publications in newspapers. Any such notice must include all of the information discussed in this paragraph. The recipient must also ensure that members of the population likely to be affected directly by a federally assisted program who have visual or hearing impairments are provided with the information necessary to understand and participate in the program.

C. Grievance Procedures. Any person or representative of such a person who believes that he or she has been discriminated against should first contact, in writing, the person identified as Coordinator under Section 5 Paragraph C of this policy. The grievance must be filed within 30 days of the alleged discriminatory act and must provide the following information:

- (1) Name and address of complainant;
- (2) Name and address of the alleged offending party;
- (3) Specific details, in a near chronological order, of the events leading to the alleged action;
- (4) The alleged discrimination;

(5) Names, addresses and phone numbers of any witnesses or other persons having knowledge of the circumstances; and

(6) Any other relevant information.

The coordinator will attempt to satisfactorily resolve the issue, informally, by contacting the involved parties within 20 days of receipt. Documentation of all phone calls, contacts and information received or disseminated must be carefully kept. Additionally, the members of the elected government must be kept informed and up-to-date regarding grievance and the progress in resolution. This information flow will occur via written progress reports, no less frequently than monthly, and discussion, as necessary, at each regularly scheduled meeting of the elected body.

The Citizens Advisory Task Force ("CATF") will be called into session to advise the coordinator and to fashion a plan for a resolution should initial resolution attempts fail. This group will function in an advisory capacity as specified in the document which establishes their existence. Records of proceedings will be maintained and forwarded to the elected body. The CATF may call both

parties together in an attempt to reach an amicable solution. The Coordinator will act as the intermediary between the CATF and the electorate and will ensure the information flow as described above.

Should informal resolution be unsuccessful, the grievance will be elevated to the formal stage. All communications will occur only in written form, via certified mail. The local government's attorney will become the lead official, acting on behalf of and with the consent of the local governing body. Maximum effort will be given to achievement of a mutually agreeable resolution with all proceedings and communications thoroughly and precisely documented.

If the preceding attempts remain unsuccessful, the matter shall be officially brought to the attention of the applicable State or Federal agency and their guidance solicited and followed.

Information in the sections which follow expand further on grievance/complaints which have exhausted local capability.

D. Compliance Information. Each recipient shall keep such records and submit to the responsible civil rights

officials complete and accurate compliance reports upon request. The records shall indicate the extent to which individuals with handicaps are beneficiaries of federally assisted programs. Each recipient shall permit access to these records by the responsible civil rights official and the general public during normal business hours.

E. Discrimination Complaints/Grievances. Any person, or representative of such a person, who believes that he or she has been discriminated against may file a confidential complaint with HUD's Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, D.C. 20410. The written complaint must be filed within 180 days of the alleged discriminatory act. The complaint must give the name and address of the alleged complainant, the name and address of the offending party, and details of the events leading to the charge of discrimination. The responsible civil rights official will notify both the complainant and the recipient of the agency's receipt of the complaint within ten calendar days.

F. Complaint/Grievance Resolution. HUD's civil rights official will review the case for acceptance, rejection, or referral within twenty calendar days of acknowledgement of

receipt of the complaint. The recipient of federal monies is then notified of the complaint and is given a chance to respond in writing within thirty days of receiving it. HUD officials then attempt to resolve the complaint informally. If informal resolution is not possible, an investigation is conducted resulting in either a dismissal of the complaint or a letter of findings against the recipient which must be issued within 180 days of receipt of the complaint. The letter of findings is then sent via certified mail, return receipt requested, to both the complainant and the recipient. Within ten days of notification of noncompliance, the recipient may volunteer to comply with the regulation. Otherwise, compliance may be effected by the suspension or termination of, or refusal to grant or continue federal financial assistance.

This last measure is the end result of a process which goes through many channels: (1) the recipient is notified of its failure to comply, (2) a finding of noncompliance is formally recorded after the recipient has been given the opportunity for a hearing, (3) the Secretary of HUD approves the action; and (4) thirty days expire after the Secretary has filed a report with the committees of the House and

Senate having legislative jurisdiction over the program or activity involved.

Intimidatory or retaliatory acts by the recipient or the offended party is prohibited. No intimidation, threats, coercion, or discrimination against any person for having participated in the investigation is permitted. The identity of complainants shall be kept confidential except to the extent necessary to carry out the intent of this policy.

SECTION 7. Severability.

If any section, subsection, sentence, clause, phrase, word or provision of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Resolution.

SECTION 8. Repeal of Conflicting Resolutions.

All resolutions or portions thereof of the City of Parker in conflict with the provisions of this Resolution are hereby repealed to the extent of such conflict.

SECTION 9. Effective Date.

This Resolution shall take effect immediately upon its passage and publication as provided by law.

PASSED, APPROVED AND ADOPTED at a meeting of the City Council of the City of Parker on this 6th day of March, 2012


TONYA BARROW, MAYOR

ATTEST:

ADONNA MULLEN, CITY CLERK

Examined and approved by me, this 6th day of March, 2012.


TONYA BARROW, MAYOR

TRANSITION PLAN

NOTE: PLAN UNDER DEVELOPMENT AT TIME OF ADOPTION OF POLICY

CITY HALL:

Barrier to H/C Accessibility	Modifications Needed	Currently in Compliance? Yes/No	Target Date for Compliance	Official Responsible for Compliance

POLICE STATION:

Barrier to H/C Accessibility	Modifications Needed	Currently in Compliance? Yes/No	Target Date for Compliance	Official Responsible for Compliance

FIRE STATION:

Barrier to H/C Accessibility	Modifications Needed	Currently in Compliance? Yes/No	Target Date for Compliance	Official Responsible for Compliance

COMMUNITY CENTER:

Barrier to H/C Accessibility	Modifications Needed	Currently in Compliance? Yes/No	Target Date for Compliance	Official Responsible for Compliance