

**III.F**

**Memorandum**

**Department of Planning, Public Works & Parks**

**To: Michael G. Herring, City Administrator**

**From: Mike Geisel, Director of Planning,  
Public Works and Parks**

**Date: 8/31/2011**

**Re: American with Disabilities Act**



As you know, due to recent Federal mandates, our ordinance relating to the referenced legislation has been updated to provide for a grievance process at the department level. In addition, in response to these Federal requirements, you have previously required that we incorporate the role of an official ADA Coordinator within the Planning, Public Works and Parks Department. We have assigned those responsibilities to Ms. Susan Mueller, P.E., Principal Engineer for the City.

As such, we request that the attached ordinance be forwarded to the Planning and Public Works Committee for consideration at their upcoming meeting. This ordinance repeals and replaces ordinance #614, which we have also attached for your reference and convenience.

If you have any questions or require additional information, please advise.

enclosure

Cc Rob Heggie, City Attorney

*ohid*  
*[Signature]*

*9/1/11*

*→ P/PW COMMITTEE*

# Memorandum

## Department of Planning and Public Works



**To:** Planning and Public Works Committee

**From:** Susan Mueller, Principal Engineer

**Date:** 08/29/2011

**RE:** Ordinance to Repeal Ordinance 614 and Implement Revised ADA Title II Regulations

The Americans with Disability Act (ADA) Title II regulations pertain to nondiscrimination on the basis of a disability in State and local government. The City of Chesterfield is federally mandated to comply with ADA Title II Regulations as published by the U. S. Department of Justice.

City Ordinance 614 established a specific grievance policy for compliance with the ADA Title II regulations. The attached Ordinance repeals Ordinance 614 and allows grievance procedures to be established at the department level to meet the varying needs of complainants with disabilities. The attached Ordinance also authorizes the City Administrator to designate one or more City employees to function as ADA Coordinator as mandated for a public entity employing 50 or more persons.

**Staff requests that the Planning and Public Works Committee recommend approval of the new ordinance.**

Should you need additional information, please advise.

attachments

cc: Mike Geisel, DPPW  
Brian McGownd, CE/PWD  
Aimee Nassif, PDSD

BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE REPEALING THE CITY OF CHESTERFIELD ORDINANCE 614 AND ADOPTING REVISED AMERICANS WITH DISABILITIES ACT TITLE II REGULATIONS WITHIN THE CITY OF CHESTERFIELD**

**WHEREAS**, The amendments made by the United States Department of Justice to the ADA 1991 Title II regulation and the adoption of the 2004 ADAAG, taken together, are referred to as the Final Rule, published September 15, 2010, and effective March 15, 2011 and;

**WHEREAS**, The Final Rule revises the regulation of the United States Department of Justice that implements Title II of the Americans with Disabilities Act (ADA), relating to nondiscrimination on the basis of disability in State and local government services.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHESTERFIELD, AS FOLLOWS:

Section 1. Ordinance 614 of the City of Chesterfield is hereby repealed in its entirety.

Section 2. The City of Chesterfield hereby adopts the Americans with Disability Act Title II Regulations, Final Rule attached hereto as Exhibit "A", and any future revisions or additions to Title II Regulations as may be published by the U. S. Department of Justice.

Section 3. The City Administrator shall designate one or more City employees to coordinate City efforts to comply with and carry out City responsibilities under the effective ADA Title II Regulations, as adopted and published by the U. S. Department of Justice.

Section 4. If any section, paragraph, clause or provision of this Ordinance shall be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any other section or part thereof.

Section 5. This Ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

[FIRST READING HELD: \_\_\_\_\_ ]

BILL NO. 621

ORDINANCE NO. 614

**AN ORDINANCE ADOPTING THE AMERICANS WITH DISABILITIES ACT.**

WHEREAS, the Americans with Disabilities Act requires that all local government programs and facilities must be made accessible to persons with disabilities by January 26, 1992; and

WHEREAS, it is the intent of the City of Chesterfield to comply with said Americans with Disabilities Act and in conformance thereto hereby adopts the following ordinance.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHESTERFIELD, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. The City of Chesterfield hereby declares that it does not discriminate on the basis of handicap status and the admission of or access to or employment in its municipal programs or activities.

Section 2. Complaints alleging any action prohibited under Section 504 of the Rehabilitation Act of 1973 must be filed within 180 days of the alleged discrimination.

Section 3. The Finance and Administration Committee shall establish a policy and procedure for the handling of complaints in conformance with Section 504.

Section 4. Assistance in filing a complaint or grievance shall be obtained by contacting the City Administrator of the City of Chesterfield and/or his designee at the general offices of the City of Chesterfield at 537-4000, including TDD number 537-3000 and RELAY Missouri numbers 837-7757 820/02 721-3744.

Section 5. In any case where the alleged violation of the Act or regulation is also an alleged violation of another law, regulation or agreement, nothing in this ordinance shall preclude an individual or the organization from filing a complaint or grievance under such law or agreement with respect to the non-Section 504 cause of action, as well as filing a complaint or grievance under Section 504.

Section 6. This Ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved this 16<sup>TH</sup> day of SEPTEMBER, 1991.

MAYOR Jack Leonard

ATTEST:

Maudie L. De May  
CITY CLERK



**PROCEDURE FOR GRIEVANCES FILED UNDER THE  
AMERICANS WITH DISABILITIES ACT**

WHEREAS, it has been the declared intent of the City of Chesterfield to comply with the Americans with Disabilities Act and in conformance thereto hereby adopts the following grievance procedure for any grievances filed pursuant to the ordinance adopted by the City of Chesterfield wherein it adopts the Americans with Disabilities Act.

**A. Definitions.**

A grievance under the Americans with Disabilities Act will be considered a grievance filed pursuant to proper notice being given under Section 2 of Ordinance Number 614 of the City of Chesterfield.

It is the desire of the City of Chesterfield to address these grievances informally and to resolve problems as they arise. It is recognized, however, that there may be grievances which will only be resolved after formal appeal and review.

**B. Grievance Procedure.**

Any person who believes they have a complaint shall follow these steps in an effort to resolve their complaint.

Step 1. Attempts shall be made to resolve the problem at the lowest possible level by using complaint procedures maintained by the municipality to resolve other complaints. If this does not work or if the complainant is not satisfied with the results, they may, at their discretion, go on to step 2.

Step 2. Contact the Section 504 Contact person to file a written complaint or grievance. Complaints or grievances will be investigated and a written determination will be forwarded to the grievant within seven (7) working days of filing. This notification will include notice to the grievant of his/her right to request an impartial hearing with the Human Rights Commission (HRC) and the Municipal Attorney and an explanation of the hearing procedure. This notice will be mailed by "Certified Mail, Return Receipt Requested." Informal resolution will be attempted. If a satisfactory resolved is not achieved through these efforts, the complainant may go to step 3.

Step 3. The grievant may request an impartial hearing by writing to the Chairperson of the HRC within four (4) working days of receipt of the written determination from the "504" contact person. Upon such a request the following procedure shall take place:

- (a) The time for the hearing will be set.
- (b) The parties to the grievance shall be notified of the hearing date at least five (5) working days before the hearing.
- (c) The hearing will be conducted by the Human Rights Commission within thirty (30) working days after the complaint is filed with the Human Rights Commission.
- (d) The hearing officer shall provide the Human Rights Commission of the municipality with a written decision within ten (10) working days after the date of the hearing.
- (e) The HRC will forward said decision to the Mayor and City Council within five (5) working days of receipt.
- (f) The Human Rights Commission will review the hearing officer's decision and the Human Rights Commission of the municipality will forward that decision with its final written determination to the grievant and other interested parties within sixty (60) working days of the filing of the grievance with the Human Rights Commission.
- (g) The decision will be mailed by "Certified Mail, Return Receipt Requested." The grievant will also be advised of his/her right to file a request for review with the Department of Housing and Urban Development, Fair Housing and Equal Opportunity Division, 1222 Spruce Street, St. Louis Missouri 63103-2836, ATTN: Mr. Roy Pierce.

C. The formal grievance appeal shall contain the following information:

1. Name of the aggrieved party;
2. A statement of facts upon which the grievance is based;
3. The date on which the event first occurred;
4. The date of the submittal of the grievance in writing;
5. Such other information as the aggrieved party deems relevant; and
6. The remedy or relief which is requested.

D. The Hearing Officer shall establish such other rules and regulations as he/she may deem appropriate to fully obtain all necessary facts to reach his/her determination both as to the presentation of evidence and the procedural handling of the hearing itself.