



## ORDINANCE

### REVISIONS TO ORDINANCES REGARDING GRIEVANCE PROCEDURES FOR PERSONS WITH DISABILITIES

#### *CITY OF NASHUA*

*In the Year Two Thousand and Twenty One*

*The City of Nashua ordains* that Part I “Administrative Legislation,” Chapter 50 “Personnel”, Article V “Grievance Procedures for Handicapped Persons” of the Nashua Revised Ordinances, as amended, be hereby further amended by deleting the struck-through language and adding the new underlined language as follows:

“Article V “Grievance Procedures for Handicapped Persons with Disabilities”

#### **§ 50-11. Basis of grievance procedure.**

The City hereby adopts an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the ~~Office of Revenue Sharing's (ORS) regulations [31 CFR 51.55(d)(2)] implementing Section 504 of the Rehabilitation Act of 1973, as amended [29 U.S.C. § 794].~~ Section 504 states, in part, that "no otherwise qualified handicapped individual . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. . . ." Department of Justice's (DOJ) regulations [28 CFR Part 35] implementing Title II of the Americans with Disabilities Act (ADA), as amended [42 U.S.C. 12101 et seq]. Title II states, in part, that "no qualified individual with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination by any public entity."

#### **§ 50-12. Filing of complaints.**

- A. A complaint pursuant to this chapter shall be filed in writing, and contain the name, and address, phone number, email, or other pertinent contact information of the person filing it, and briefly describe a description of the alleged violation of the regulations described in section 50-11. Any individual having difficulty in making filing a complaint in writing may contact the Section 504 ADA Coordinator for assistance. An ADA Grievance Form will be made available, or a written document that complies with this section may be submitted.

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- B. Complaints shall be addressed to the ~~Section 504 ADA~~ Coordinator, ~~Community Services Division, City of Nashua, 18 Mulberry Street, Nashua, NH 03060, telephone (603) 880-3357, Risk Management Department, 229 Main Street, Nashua, NH 03060, (603) 589-3350~~ who has been designated to coordinate ~~Section 504 ADA~~ compliance efforts.
- C. A complaint shall be filed within ~~10 working~~ 180 calendar days after the complainant becomes aware of the alleged violation. The ~~Section 504 ADA~~ Coordinator may waive the ~~ten-day~~ 180 day requirement when in the exercise of his ~~the ADA Coordinator's discretion~~ he concludes it is concluded that any delay was justified and not in bad faith and that justice will be served thereby.

### § 50-13. Investigation of complaints.

An investigation, as may be appropriate, shall follow the filing of a complaint pursuant to this chapter. The investigation will be conducted by the ~~Section 504 ADA~~ Coordinator or his ~~the ADA Coordinator's~~ designated representative. These rules contemplate informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint. ~~Under 31 CFR 51.55(d)(2) the City need not process complaints from applicants for employment or from applicants for admission to postsecondary educational institutions.~~

### § 50-14. Resolution of complaints.

A written determination as to the validity of the complaint under this chapter and a description of the resolution, if any, shall be issued by the ~~Section 504 ADA~~ Coordinator and a copy forwarded to the complainant no later than ~~30~~ 15 days after a written complaint which meets the requirements of section 50-12, A, has been filed its filing. The time period for a determination may be extended if such time is reasonable, justified, and not in bad faith.

### § 50-15. Appeal procedure.

A complainant under this chapter can request a reconsideration of the case in instances where ~~he or she~~ the complainant is dissatisfied with the resolution. The request for reconsideration shall be made within ~~10~~ 15 calendar days to the Mayor of the City.

### § 50-16. Recordkeeping.

The ~~Section 504 ADA~~ Coordinator shall maintain the files and records of the City relating to complaints filed under this chapter.

### § 50-17. Rights of individuals.

- A. The right of a person to a prompt and equitable resolution of the complaint filed under this chapter shall not be impaired by the person's pursuit of other remedies ~~such as the filing of a Section 504 complaint with the Office of Revenue Sharing, United States~~

- B. ~~Department of the Treasury.~~ Utilization of this grievance procedure is not a prerequisite to the pursuit of other remedies.
  
- C. These ~~This chapter rules~~ shall be construed to protect the substantive rights of interested persons, to meet appropriate due process standards and to assure that the City complies with ~~Section 504 and the ORS regulations~~ the ADA. This chapter is not intended to be the exclusive grievance procedure for complaints regarding the ADA to the City so long as any other ADA complaint procedures established within the City require that the complaint be filed in writing, and contain the name, address, phone number, email, or other pertinent contact information of the person filing, and a description of the alleged violation of the regulations described in section 50-11. ”

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

This legislation shall take effect following its passage.

**LEGISLATIVE YEAR 2021**

**ORDINANCE:**

**O-21-079**

**PURPOSE:**

**Revisions to ordinances regarding grievance procedures for persons with disabilities**

**ENDORSER(S):**

**Mayor Jim Donchess**

**COMMITTEE  
ASSIGNMENT:**

**Personnel/Administrative Affairs Committee**

**FISCAL NOTE:**

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**ANALYSIS**

This legislation updates statutory references and amends the complaint procedures for person with disabilities. This complaint procedure is not an exclusive procedure for ADA complaints, allowing divisions or departments, such as Nashua Transit Authority, to have its own complaint procedures. It is a general, "catch-all" grievance process for person with disabilities.

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**Approved as to form:**

**Office of Corporation Counsel**

**By:** November 17, 2021

**Date:**



**ORDINANCE** O-21-079

**Revisions to ordinance**  
**regarding grievance procedures**  
**for persons with disabilities**

**IN THE BOARD OF ALDERMEN**

1<sup>ST</sup> READING November 23, 2021

Referred to:  
Personnel/Administrative Affairs Committee

2<sup>nd</sup> Reading December 14, 2021

3<sup>rd</sup> Reading \_\_\_\_\_

4<sup>th</sup> Reading \_\_\_\_\_

Other Action \_\_\_\_\_

Passed December 14, 2021

Indefinitely Postponed \_\_\_\_\_

Defeated \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk

\_\_\_\_\_  
President

Approved \_\_\_\_\_  
Mayor's Signature

\_\_\_\_\_  
Date

**Endorsed by**

\_\_\_\_\_  
MAYOR  
\_\_\_\_\_  
O'BRIEN  
HARRIOTT-  
GATHRIGHT  
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Vetoed: \_\_\_\_\_

Veto Sustained: \_\_\_\_\_

Veto Overridden: \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk

\_\_\_\_\_  
President