

DEPT. OF PLANNING AND DEVELOPMENT		City Council Agenda Item #72
ZONING DIVISION		City Council Approval Date October 09, 2018
EFFECTIVE DATE: OCTOBER 9, 2018		Minute Book 60 – PG 55

## REQUEST FOR REASONABLE ACCOMMODATIONS

### FROM ZONING REGULATIONS RELATED TO HOUSING FOR PERSONS WITH DISABILITIES

#### Policy

A “reasonable accommodation” is a change, exception, or adjustment to a rule, policy, practice, to use and enjoy a dwelling, including public and common use spaces. (Per the Joint Statement of the Department of Housing and Urban Development and the Department of Justice *Reasonable Accommodations Under the Fair Housing Act - November 10, 2016*).  
<https://www.justice.gov/opa/pr/departments-justice-and-housing-and-urban-development-release-updated-fair-housing-act>

Reasonable accommodation does not include an accommodation which would (1) impose an undue financial and administrative burden on the city or (2) require a fundamental alteration in the nature of the city’s land use and zoning program.

- A request for reasonable accommodation may be made by any person with a disability, their representative or any entity, when the application of a zoning law or other land use regulation, policy or practice acts as a barrier to fair housing opportunities. A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment. This section is intended to apply to those persons who are defined as disabled by the Federal Fair Housing Act and the Americans with Disabilities Act.
- A request for reasonable accommodation may include a modification or exception to the rules, standards and practices for the siting, development and use of housing or housing related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of his or her choice;
- A reasonable accommodation may be only granted for the use that needs the accommodation. Where a Use Permit is required a reasonable accommodation may be available.

#### Procedures

A request for reasonable accommodation may be submitted orally or in writing. A verbal request does not require specific language such as reasonable accommodation or disability. Any communication to a Zoning Division employee in which an individual, entity, or representative indicates that a change is needed due to a disability shall be considered a request for reasonable accommodation. All reasonable accommodations applications shall be

forwarded to the Zoning Administrator or designee within twenty-four (24) working hours or the next business day by the employee receiving the application.

Upon receipt of an oral or a written request for accommodation, a City of Jackson staff member will offer assistance in completing a Reasonable Accommodation Application or will input the information provided orally by the applicant into the Application on the applicant's behalf if requested. The City may request additional information if needed.

The application can be found on the City of Jackson Website on the Department of Planning and Development/Zoning Division page ([www.jacksonms.gov](http://www.jacksonms.gov)) or in the Zoning Division Office. The application shall include the following information as applicable:

- The applicant's name, address and telephone number;
- Address of the property for which the request is being made;
- The name and address of the property owner, and the owner's written consent to the application;
- The current actual use of the property;
- The way in which the proposed use of the property will serve individuals considered to have disabilities; and
- The type of accommodation sought.

### **Record Maintenance**

The Zoning Division shall retain all original records pertaining to reasonable accommodation and modifications. Files will be maintained in the Zoning Division and copies provided to the Fair Housing Compliance Officer (FHCO).

### **Fees**

There are no fees or costs associated with requests for reasonable accommodation or modification. Requests for reasonable accommodation shall not be refused processing or denied due to the number of requests submitted based upon the rights exercised under the Fair Housing Act relative to reasonable accommodation.

### **Reasonable Accommodation Review Committee**

The Director or his/her designee, Fair Housing Compliance Officer, and the Zoning Administrator will review the application for reasonable accommodations and will notify applicant of the decision within seven (7) to ten (10) business days.

### **Notice of the Decision for Reasonable Accommodation Request**

The Zoning Administrator shall within ten (10) days of the submission of a Reasonable Accommodation Request submit a written notice **of the Reasonable Accommodation Committee's decision (approval or denial)** to the applicant unless additional information is needed. The notice shall include factual findings, conclusions, and reasons for the decision. For requests that are approved, the notice shall include any conditions that may have been placed

on the approval. The notice shall also include the time frame and process for appeal of the decision.

### **Appeal of the Decision of the Reasonable Accommodation Committee**

A written notice of appeal of the Reasonable Accommodation Committee's decision shall be given to the Zoning Administrator within fifteen (15) days from the date of such notice. The Zoning Administrator shall, within five (5) working days of receiving the Notice of Appeal, submit a written notice for the hearing date to the appellant.

All appeals shall contain a written statement of the grounds for the appeal. However, if the appellant is unable to prepare a written statement, then the appellant may sign the form indicating that he/she would like to appeal the decision and the appellant may make an oral argument before the Planning Director, the Fair Housing Compliance Officer, and a representative from the Legal staff.

Any personal information related to disability status shall be retained in a manner so as to protect the privacy rights of the applicant and shall not be made available for public inspection.

In considering an appeal of a decision of the Reasonable Accommodation Committee, the Planning Director, Fair Housing Compliance Officer, and a representative from the Legal staff shall conduct the appeal hearing and consider:

- ✓ the application requesting a reasonable accommodation;
- ✓ the Reasonable Accommodation Committee's decision;
- ✓ the applicant's written statement of the grounds for the appeal;
- ✓ the provisions of the Reasonable Accommodation Policies and Procedures in order to determine whether the decision was consistent with applicable fair housing and disabilities laws; and/or
- ✓ Alternative, but mutually agreed upon, accommodation(s).

In the event an accommodation is not agreed upon, the Planning Director will make a recommendation based upon the findings from the appeal to the City's Chief Administrative Officer. The Chief Administrative Officer will make the decision to grant or deny the Reasonable Accommodation request.

Nothing in this procedure shall preclude an aggrieved individual from seeking any other state or federal remedy available.



Are the people who will live at the dwelling persons with disabilities?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please describe the reasonable accommodation:

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Please provide the following information if you are requesting an accommodation to house more than six (6) unrelated people in a single-family dwelling:

- ✓ Number of residents who will live in the dwelling
- ✓ Number of staff who will serve the building, if any
- ✓ Anticipated number of vehicles used by residents and staff, if any
- ✓ Number of off-street parking spaces available
- ✓ Square footage of building
- ✓ Number of bedrooms in the dwelling

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### OFFICE USE ONLY

#### ZONING EMPLOYEE INFORMATION

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

Submission Date: \_\_\_\_\_

#### SUBMISSION FORMAT

Verbal: \_\_\_\_\_ Written: \_\_\_\_\_ Other: \_\_\_\_\_

Reasonable Accommodation Request Number: \_\_\_\_\_

Date Received: \_\_\_\_\_

Employee Assisted: \_\_\_\_\_ Yes \_\_\_\_\_ No

**EMPLOYEE SIGNATURE:** \_\_\_\_\_

**Expiration:** Approvals for Reasonable Accommodations shall expire within one hundred eighty (180) days if not implemented.

# City of Jackson Planning & Development Department

## Notice of Decision on Reasonable Accommodation Request

Date Received or Date of Application: \_\_\_\_\_

Date of Decision: \_\_\_\_\_

The request for Reasonable Accommodation is:

Granted \_\_\_\_\_

Denied \_\_\_\_\_ (*See the Right to Appeal Notice Below*)

The decision was based upon:

Signature of Designee: \_\_\_\_\_ Date: \_\_\_\_\_

**Notice:** If your request for a reasonable accommodation was denied you may appeal the denial. A Notice of Appeal must be submitted in writing to the Zoning Administrator within fifteen (15) days of receiving such notice. An appeal of a decision by the Reasonable Accommodation Committee shall be heard by the Planning Director, Fair Housing Compliance Officer, and a representative from the Legal staff. If you are unable to prepare a written statement, you may sign the Appeal form and present your argument orally.

## **References**

Joint Statement of the Department of Housing and Urban Development and the Department of Justice, State and Local Land Use Laws and Practices and the Application of the fair Housing Act, –*November 10, 2016*

**<https://www.justice.gov/crt/page/file/909956/download>**

Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations Under the Fair Housing Act, May 17, 2004

**[https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint\\_statement\\_ra.df](https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.df)**

Consent Decree – Reasonable Accommodation Policy - (Item V – 13 PG 5) **Civil No. :3:16-cv-766-HTW-LRA**