



**RESOLUTION R 2020-02-00496**  
[Approving Reasonable Accommodation Policy]

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LUCAS, TEXAS, ADOPTING THE REASONABLE ACCOMMODATION POLICY ATTACHED HERETO AS EXHIBIT “A”; ADOPTING THE REASONABLE ACCOMMODATION APPLICATION FORM ATTACHED HERETO AS EXHIBIT “B”; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to the Fair Housing Amendments Act of 1988, the Americans with Disabilities Act and applicable state laws, individuals with disabilities are entitled to an equal opportunity to use and enjoy residential dwellings;

**WHEREAS**, the City Council desires to adopt a policy establishing an administrative process for requesting a reasonable accommodation or modification of residential uses from the City’s zoning, land use and other regulations, rules, policies and practices, to ensure equal access to housing and to facilitate the development of housing for individuals with disabilities, or developers of housing for people with disabilities, flexibility in the application of land use, zoning, building and other regulations, policies, practices and procedures, including waiving certain requirements, when it is necessary to eliminate barriers to housing opportunities to ensure person(s) with a disability has an equal opportunity to use and enjoy a dwelling; and

**WHEREAS**, the City Council finds that the policy attached hereto as Exhibit “A” fulfills this purpose and is in the best interest of the City and its inhabitants;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUCAS, TEXAS:**

**SECTION 1.** That the City of Lucas Reasonable Accommodation Policy attached hereto as Exhibit “A” and the City of Lucas Reasonable Accommodation Application form attached hereto as Exhibit “B” be and the same are hereby adopted and shall govern the procedure for requesting reasonable accommodation or modification for residential uses from and after the effective date of this Resolution.

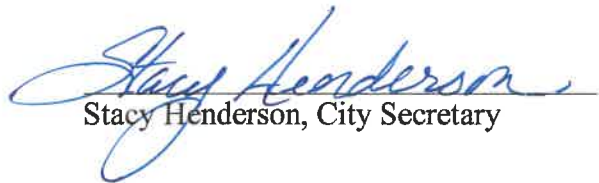
**SECTION 2.** That all provisions of the Resolutions of the City of Lucas, Texas, in conflict with the provisions of this Resolution be, and the same are hereby, repealed, and all other provisions of the Resolutions of the City not in conflict with the provisions of this resolution shall remain in full force and effect.

**SECTION 3.** That should any word, sentence, paragraph, subdivision, clause, phrase or section of this Resolution, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said resolution, which shall remain in full force and effect.


**SECTION 4.** That this resolution shall take effect immediately upon its passage.

**DULY RESOLVED AND ADOPTED** by the City Council of the City of Lucas, Texas,  
on the 6<sup>th</sup> day of February, 2020.

**ATTEST:**

  
Stacy Henderson, City Secretary

**APPROVED:**

  
Jim Olk, Mayor



## **EXHIBIT A**

### **REASONABLE ACCOMMODATION OR MODIFICATION FOR RESIDENTIAL USES**

#### **Section 1. Purpose.**

- (a) It is the policy of the City of Lucas, pursuant to the Fair Housing Amendments Act of 1988, the Americans with Disabilities Act and applicable state laws, to provide individuals with disabilities reasonable accommodations (including modifications or exceptions) in the City's zoning, land use and other regulations, rules, policies and practices, to ensure equal access to housing and to facilitate the development of housing for individuals with disabilities, or developers of housing for people with disabilities, flexibility in the application of land use, zoning, building and other regulations, policies, practices and procedures, including waiving certain requirements, when it is necessary to eliminate barriers to housing opportunities to ensure person(s) with a disability has an equal opportunity to use and enjoy a dwelling.
- (b) This policy provides a procedure for making requests for accommodations in land use, zoning, building regulations and other regulations, policies, practices, and procedures of the jurisdiction to comply fully with the intent and purpose of applicable laws, including federal laws, in making a reasonable accommodation.
- (c) Nothing in this policy shall require person(s) with disabilities or operators of homes for person(s) with disabilities acting or operating in accordance with applicable zoning or land use laws or practices to seek a reasonable accommodation under this policy. Nothing in this policy shall require the City to agree to requested accommodations that are unreasonable.

#### **Section 2. Applicability.**

- (a) The provisions of this policy apply to residential uses that will be used by person(s) with disabilities.
- (b) The accommodation granted shall be considered personal to the individual(s) and shall not run with the land. If the structure is sold, or otherwise changes ownership, an accommodation granted to the previous owner is not transferable to the new owner. Notwithstanding, the accommodation shall be in force and effect as long as the person or group of persons with disabilities for whom the accommodation was sought resides on the property that is the subject of the accommodation. It is the duty of the owner to notify the City of this event. The City shall allow the new owner an opportunity to renew and/or modify a granted reasonable accommodation in accordance with this policy. In the event the reasonable accommodation is not renewed or modified within 60 days from the date of change in ownership, the accommodation will lapse, and the structure will have to comply with all requirements of local regulations.
- (c) Nothing in this policy will require the City to expend any funds to achieve a reasonable accommodation except and to the extent required by state or federal law.

- (d) Nothing in this policy will alter person(s) with disabilities' obligation to comply with other applicable federal, state, and local regulations.
- (e) The City shall prominently display a notice at City Hall and on the City's website advising those with disabilities or their representatives that they may request a reasonable accommodation in accordance with the procedures established in this policy. A copy of the notice shall be available upon request.

**Section 3. Definitions.**

The following words, terms and phrases, when used in this policy, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

**City Manager.** The City Manager or their designee.

**Director.** The Development Services Director or City official with authority to administer, implement, or enforce a requirement that is the basis of the request for reasonable accommodation.

**Person(s) with Disabilities.** For the purposes of this policy, has the meaning set forth in the federal Fair Housing Act and the American with Disabilities Act and is an individual who has a physical or mental impairment that limits one or more of the major life activities of such individual, is regarded as having such impairment, or has a record of such impairment. While a person recovering from substance abuse is considered a person with a disability under 42 U.S.C. § 3602(h), a person who is currently engaged in illegal use of controlled substances is not.

**Reasonable Accommodation (Inclusive of Modification).** The act of making a dwelling unit or housing facility(ies) readily accessible to and usable by person(s) with disabilities, through the removal of constraints in the City's land use, zoning, permit and processing procedures. All accommodations may be not reasonable, and the reasonableness of a request will be determined by the Director or City Manager's designee upon appeal.

**Requirement.** A provision of the City Code or an administrative policy, program or procedure.

**Section 4. Effect.**

A reasonable accommodation controls over a conflicting City regulation or requirement.

**Section 5. Requests for Accommodation; Application.**

- (a) An application for an accommodation may be made by any person(s) with a disability, his or her representative, or a developer or provider of housing for person(s) with disabilities.
- (b) A request for accommodation may be submitted at any time the accommodation may be necessary to afford the person(s) with a disability equal opportunity to use and enjoy the dwelling. A written acknowledgment of the request shall be sent to the applicant within ten days of receipt by the Director.

- (c) Requests for an 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 person(s) with a disability equal opportunity to a dwelling of his or her choice.
- (d) An individual requesting an accommodation shall submit an application for a reasonable accommodation using the appropriate City form, to be provided by the Director. The City shall assist the applicant with furnishing all information maintained by the City with respect to an accommodation. The applicant shall provide the following:
  - (1) Name and address of the person(s) or entity requesting accommodation. If the applicant is applying on behalf of person(s) with a disability, the name and address of the person(s) with a disability shall also be provided.
  - (2) Address of the property for which the accommodation is requested.
  - (3) Indication of whether that the applicant is:
    - a. Person(s) with a disability;
    - b. Applying on behalf of person(s) with a disability; or
    - c. A developer or provider of housing for one or more person(s) with a disability.
  - (4) Description of the disability at issue, the requested accommodation, and the specific regulation(s), policy, practice or procedure for which the accommodation is sought. In the event that the specific individuals who are expected to reside at the property are not known to a provider in advance of making the application, the provider shall not be precluded from filing the application but shall submit details describing the range of disabilities that prospective residents are expected to have to qualify for the housing.
  - (5) Description of whether the specific accommodation requested by the applicant is necessary for the person(s) with the disability to use and enjoy the dwelling or is necessary to make the provision of housing for person(s) with disabilities financially or practically feasible.
  - (6) Any other information the Director concludes is necessary in order to make findings compliant with applicable local, state and federal laws. In most cases, an individual's medical records or detailed information about the nature of a person's disability is not necessary for this inquiry. (*See Joint Statement of The Department of Housing and Urban Development and The Department of Justice: Reasonable Accommodations Under the Fair Housing Act #18.*)
- (e) Any personal information regarding disability status identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and/or person(s) with a disability and shall not be made available for public inspection



unless required by the Texas Public Information Act. Any information received regarding the disability status identified, including but not limited to medical records, will be returned to the applicant within ten days of the decision of the City Manager. The applicant need provide only the information necessary for the City to evaluate the reasonable accommodation request.

- (f) If the person(s) with the disability needs assistance to make a request for accommodation, the Director will provide assistance, including transcribing a verbal request into a written request.
- (g) A fee shall not be required for an application for an accommodation.

#### **Section 6. Review Authority.**

- (a) A request for accommodation shall be reviewed, and a determination made, by the Director, using the criteria set forth in Section 7.
- (b) The Director shall issue a written decision on a request for accommodation within 30 calendar days of the date of the application, and may either grant, grant with alterations or conditions, or deny a request for an accommodation in accordance with the required findings set forth in Section 7.
- (c) If necessary, to reach a determination on the request for accommodation, the Director may request further information, including any necessary documents, from the applicant consistent with applicable laws, specifying in detail the additional information that is required. Any personal information related to the disability status identified by the applicant as confidential 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 unless required by the Texas Public Information Act. Any information received regarding the disability status identified, including but not limited to medical records, will be returned to the applicant within ten days of the decision of the City Manager. If a request for additional information is made, the running of the 30-calendar day period to issue a decision is stayed until the applicant responds to the request.

#### **Section 7. Required Findings.**

- (a) The written decision to grant, grant with alterations or conditions, or deny a request for accommodation shall be based on the following factors to the extent they are consistent with applicable laws:
  - (1) Whether the housing that is the subject of the request for accommodation will be used by person(s) with a disability protected under the applicable laws.
  - (2) Whether the requested accommodation is necessary to make a dwelling available to person(s) with disabilities protected under the applicable laws.

- (3) Whether the requested accommodation would pose an undue financial or administrative burden on the City. The determination of undue financial and administrative burden will be done on a case-by-case basis.
  - (4) Whether the requested accommodation would require a fundamental alteration in the nature of a City program or law, including but not limited to zoning and land use.
- (b) In making findings, the Director may grant with alterations or conditions, reasonable accommodations, if the Director determines that the applicant's initial request would impose an undue financial or administrative burden on the City, or fundamentally alter a City program or law. The alterations or conditions shall provide an equivalent level of benefit to the applicant with respect to:
- (1) Enabling the person(s) with a disability to use and enjoy the dwelling; and
  - (2) Making the provision of housing for person(s) with a disability financially or practically feasible.

**Section 8. Written Decision.**

- (a) The written decision of the Director on an application for an accommodation shall explain in detail the basis of the decision, including the Director's findings on the criteria set forth in Section 7. All written decisions shall give notice of the applicant's right to appeal and to request assistance in the appeal process as set forth in Section 9. The notice of the decision shall be sent to the applicant by certified mail and electronic mail, if the applicant's electronic mail address is known to the City.
- (b) The written decision of the Director shall be final unless the applicant files an appeal to the City Manager in accordance with Section 9. Nothing herein shall prohibit the applicant, or persons on whose behalf a specific application was filed, from reapplying for an accommodation based on additional grounds or changed circumstances. Nor shall this provision be construed to affect in any way the rights of a person to challenge the denial of a request for reasonable accommodation as violating the Fair Housing Act, the ADA or any other applicable state, federal or local law.
- (c) If the Director fails to render a written decision on the request for accommodation within the 30-calendar day period established in Section 6, the accommodation request shall be deemed granted.
- (d) A request for accommodation stays all proceedings in furtherance of the enforcement of any requirement that is the subject of the request. An accommodation request does not affect an applicant's obligation to comply with other applicable regulations not at issue in the requested accommodation.

- (e) The Director shall retain, for the duration of the accommodation and at least five years thereafter, written records of each request and all related records, including the City's responses and decisions.



**Section 9. Appeals.**

- (a) An applicant, or a person on whose behalf an application was filed, may appeal the written decision to deny or grant an accommodation with alterations or conditions or a denial of the accommodation no later than 30 calendar days from the date the decision is mailed.
- (b) An appeal must be in writing (or reduced to writing as provided by subsection (c), below) and include grounds for appeal. Any personal information related to the disability status identified by the applicant as confidential 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 unless required by the Texas Public Information Act. Any information received regarding the disability status identified, including but not limited to medical records, will be returned to the applicant within ten days of the decision of the City Manager.
- (c) If an applicant needs assistance appealing a written decision, the City will provide assistance transcribing a verbal request into a written appeal to ensure that the appeals process is accessible.
- (d) An applicant shall not be required to pay a fee to appeal a written decision.
- (e) An appeal will be decided by the City Manager. In considering an appeal of a decision of the Director, the City Manager shall consider:
  - (1) The application requesting the accommodation;
  - (2) The Director's decision;
  - (3) The applicant's written statement of the grounds of the appeal; and
  - (4) The provisions of this policy, in order to determine whether the Director's decision was consistent with applicable fair housing laws and the required findings in Section 7.
- (f) If a written decision on the appeal is not rendered within 30 calendar days from the date the appeal is received, the requested accommodation shall be deemed granted.
- (g) The decision of the City Manager is final.

**EXHIBIT B  
APPLICATION FOR REASONABLE ACCOMMODATION**

**Application for Reasonable Accommodation**

**Return to Any of the Following:**

665 Country Club Rd, Lucas, TX 75002

[jhilbourn@lucastexas.us](mailto:jhilbourn@lucastexas.us)

Facsimile (972) 727-0091

The City of Lucas seeks to provide a process for consideration of reasonable accommodation requests related to **residential dwellings**. A reasonable accommodation is any modification of the City's zoning, land use and other regulations, rules, policies and practices to ensure **equal access to housing** and to ensure person(s) with a disability has an equal opportunity to enjoy a dwelling.

Should you need assistance in completing this application, please ask staff in the Development Services Department by calling (972) 912-1207, or by emailing [jhilbourn@lucastexas.us](mailto:jhilbourn@lucastexas.us), or by visiting City Hall, 665 Country Club Road, Lucas, Texas 75002.

**PLEASE NOTE: Do not submit information such as Social Security numbers, date of birth, medical records, or lists of medications.**

**No fee is required for an application for reasonable accommodation.**

An application for accommodation may be submitted **at any time** as necessary to afford the person with a disability equal opportunity to use and enjoy the dwelling.

**Applicant and Property information:**

1. Address of the property for the accommodation:

\_\_\_\_\_

2. Name of Applicant requesting accommodation: \_\_\_\_\_

Relationship to person with disability if not the applicant:

\_\_\_\_\_

May be any person(s) with disability, his or her representative, or a developer or provider of housing for persons with disabilities.

3. Permanent Address of Applicant: \_\_\_\_\_

4. Applicant phone: \_\_\_\_\_ Email address: \_\_\_\_\_

5. If the applicant is applying on behalf of a person with a disability, the name and address of the person with a disability:

Name \_\_\_\_\_

Address \_\_\_\_\_

6. Property Owner name (if different from above):

\_\_\_\_\_

Property Owner's Mailing Address:

\_\_\_\_\_

7. Identify the reasonable accommodation requested and the specific regulations, policy or procedure from which the waiver or deviation is requested.

\_\_\_\_\_

\_\_\_\_\_

8. Describe how the person, or persons on behalf of which this application is being made, is considered disabled under the Fair Housing Act and the Americans with Disabilities Act.

\_\_\_\_\_

\_\_\_\_\_

9. Give the reason that an accommodation may be necessary for the use and enjoyment of the dwelling.

\_\_\_\_\_

\_\_\_\_\_

10. Please attach any documents that you wish to provide to support your request for an accommodation. In most cases, an individual's medical records or detailed information about the nature of the person's disability is not necessary for this application.

**Note:** The City may request any other information as necessary in order to make findings in accordance with applicable local, state and federal Fair Housing laws. Any personal information regarding disability status identified by an applicant as confidential shall be retained in such a manner so as to respect the privacy rights of the applicant and/or person with a disability and shall not be made available for public inspection.

**Acknowledgement:**

I certify that the above statements are true and correct to the best of my knowledge.

Applicant's signature: \_\_\_\_\_ Date: \_\_\_\_\_