

ORDINANCE NO. 20160204-046

AN ORDINANCE AMENDING CITY CODE TITLE 2 (ADMINISTRATION) RELATING TO REASONABLE ACCOMMODATIONS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. City Code Title 2 (*Administration*) is amended to add a new Chapter 2-14 (*Reasonable Accommodations*) to read as follows:

ARTICLE 1. GENERAL PROVISIONS

§2-14-1 PURPOSE

- (A) The purpose of this Chapter is to create and implement a reasonable accommodations process that is consistent with the Federal Fair Housing Amendments Act of 1988 (FHAA) 42 U.S.C. §3601, *et seq.*
- (B) The City adopts this reasonable accommodations process as a means to comply with its obligations under the FHAA.
- (C) The purpose of a reasonable accommodation is to modify a specific City of Austin requirement to ensure an individual with a disability has an equal opportunity to use and enjoy a dwelling.

§2-14-2 APPLICABILITY.

- (A) This process applies to requirements adopted by the City.
- (B) A reasonable accommodation is specific to the individual with a disability and does not run with the property.
- (C) A reasonable accommodation does not alter an individual's obligation to comply with other applicable federal, state, and City requirements.

§2-14-3 DEFINITIONS.

- (1) ACCOMMODATION means a change, exception, or adjustment to a requirement.
- (2) APPLICANT means the eligible individual that requests an accommodation.
- (3) DIRECTOR means the department head or City official with authority to administer, implement, or enforce a requirement that is the basis of the request for a reasonable accommodation.

- (4) **DISABILITY** means a physical or mental impairment which substantially limits one or more major life activities; a record of such impairment; or being regarded as having such an impairment, but does not include current, illegal use of a controlled substance.
- (5) **ELIGIBLE INDIVIDUAL** means an individual with a disability, a representative of the individual with a disability, or a person that lives, or will live, with the individual with a disability.
- (6) **REQUIREMENT** means a provision of the City Code, an uncodified ordinance, a rule or regulation adopted pursuant to Chapter 1-2 (*Adoption of Rules*), or an administrative policy or procedure.

§2-14-4 EFFECT.

A reasonable accommodation controls over a conflicting City requirement.

§2-14-5 AUTHORITY OF DIRECTOR.

- (A) The director is authorized to grant a reasonable accommodation. An accommodation is reasonable when the accommodation may be necessary to afford an individual with a disability an equal opportunity to use and enjoy a dwelling.
- (B) The director is authorized to grant an alternative reasonable accommodation.
- (C) The director must deny a request for an unreasonable accommodation. An accommodation is unreasonable when the accommodation imposes an undue financial or administrative burden on the City; or requires a fundamental alteration in the nature of the City's land use and zoning regulations.

ARTICLE 2. PROCESS

§2-14-11 REQUEST PROCESS.

- (A) A request for an accommodation may be submitted at any time the accommodation may be necessary to afford an individual with a disability an equal opportunity to use and enjoy a dwelling.
- (B) A request must be submitted in writing to the director.
- (C) If an eligible individual needs assistance to make a request for an accommodation, the director will provide assistance including, but not limited to, transcribing a verbal request into a written request.
- (D) A request must include, at a minimum, the following information:
 - (1) name and address of the applicant requesting the accommodation;

- (2) name and address of each property owner, if not the same as the applicant;
- (3) address of the property for which the accommodation is requested;
- (4) date of the request;
- (5) description of the requested accommodation and the requirement for which accommodation is sought; and
- (6) reason the requested accommodation may be necessary for each individual with the disability to use and enjoy the dwelling.

(E) An eligible individual is not required to pay a fee for an accommodation request.

(F) An eligible individual may request an expedited review of the accommodation request.

§2-14-12 DECISION ON AN ACCOMMODATION.

- (A) The director shall review a request for an accommodation and issue a written decision on the request no later than 30 calendar days from the date the request is received. The written decision must state the basis of the decision, including the factors described in Section 2-14-12(E).
- (B) If the director fails to render a written decision within 30 calendar days, the request is deemed granted.
- (C) If the director receives a request for an expedited review of the requested accommodation, the director will take action to accommodate such request.
- (D) If necessary to reach a determination on the request for an accommodation, the director may request further information from the applicant consistent with FHAA. The request must specify the information that is required. In the event additional information is requested, the 30 calendar day period to issue a decision is stayed until the applicant responds to the request.
- (E) The written decision on a request for an accommodation shall be consistent with the FHAA and based on the following factors:
 - (1) whether the housing, which is the subject of the requested accommodation, will be used by an individual with a disability protected under fair housing laws;
 - (2) whether the requested accommodation is necessary to afford an individual with a disability an equal opportunity to use and enjoy a dwelling;
 - (3) whether the requested accommodation would impose an undue financial or administrative burden on the City; and

- (4) whether the requested accommodation would require a fundamental alteration in the nature of the City's land use and zoning regulations
- (F) If the director finds that the requested accommodation will impose an undue financial or administrative burden on the City, or will require a fundamental alteration in the nature of the City's land use and zoning regulations, the director must find whether an alternative reasonable accommodation exists that would effectively meet the disability-related need.
- (G) An alternative reasonable accommodation may be the requested accommodation with conditions. The conditions must relate to the specific disability that causes the need for the accommodation.
- (H) Before the director denies a request for an accommodation, the director must consult with the City Attorney.
- (I) If the director denies the requested accommodation, the decision must include a proposed alternative reasonable accommodation.
- (J) The decision shall be sent by certified mail, regular mail, and if requested by the applicant, by electronic mail.

§2-14-13 APPEALS.

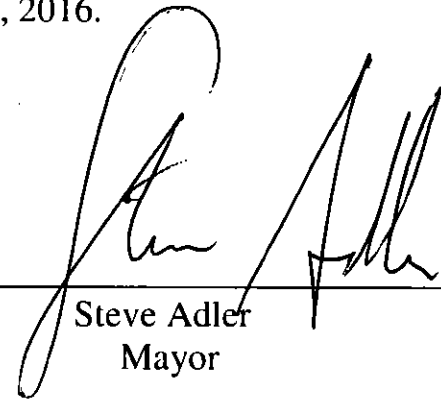
- (A) An applicant may appeal the written decision to deny or to grant an alternative reasonable accommodation no later than 30 calendar days from the date the decision is mailed.
- (B) An appeal must be in writing and include the grounds for the appeal.
- (C) If an applicant needs assistance appealing a written decision, the director will provide assistance including, but not limited to, transcribing a verbal appeal into a written appeal.
- (D) An applicant is not required to pay a fee to appeal a written decision.
- (E) An applicant may request an expedited review of an appeal.
- (F) An appeal will be decided by the City Manager's designee.
- (G) If the appeal includes a request for an expedited review, the City Manager's designee will take action to accommodate such request.
- (H) 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.
- (I) Consideration of an appeal is subject to the same standards set forth in Section 2-14-12 (*Decision on an Accommodation*).

PART 2. This ordinance takes effect on February 15, 2016.

PASSED AND APPROVED


February 4, 2016

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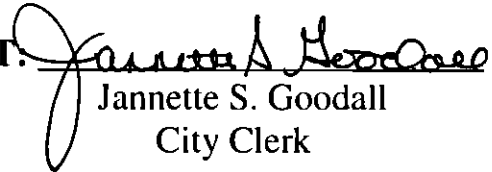
Steve Adler
Mayor

APPROVED:



Anne L. Morgan
City Attorney

ATTEST:



Jannette S. Goodall
City Clerk