

Policy on Requesting Reasonable Accommodations from the Zoning Code

Background

The Americans with Disabilities Act (ADA), as amended, is a federal anti-discrimination statute designed to remove barriers that prevent qualified individuals with disabilities from enjoying the same opportunities available to persons without disabilities. The Fair Housing Act (FHA), as amended, is a federal anti-discrimination statute that prohibits discriminating against a person on the basis of disability by refusing to make reasonable accommodations when necessary to afford the person equal opportunity to use and enjoy a dwelling.

The FHA and ADA require City governments to make reasonable accommodations to policies, practices, or procedures to prevent discrimination on the basis of disability.¹ Reasonable accommodations can include changes, modifications or adjustments to local laws, ordinances, and regulations that prevent people with disabilities from having an equal opportunity to use and enjoy a dwelling. For example, it may be reasonable to grant an accommodation from zoning requirements and setbacks. In addition, city governments may consider granting exceptions to the enforcement of certain laws as a form of reasonable accommodation.

The City of Jacksonville Planning and Development Department (PDD) shall make reasonable accommodations in policies, practices, or procedures when the accommodations are necessary to avoid discrimination on the basis of disability, unless those accommodations would fundamentally alter the nature of the service, program, activity, or cause an undue financial and administrative burden.

General Provisions

All reasonable accommodation requests that are submitted will be reviewed on an individual basis and independently of all other requests. The Department recognizes that a reasonable accommodation request may be the basis for a request to rezone or to alter the uses of private property. Such applications that constitute requests for rezoning or zoning exceptions will be processed and administered in the normal course required by the zoning code with the additional reasonable accommodation criteria required by zoning code sec. 656.112(e).

For requests other than rezoning and zoning exception requests, the Director shall make the decision on the application for reasonable accommodation based upon consultation with, and the written recommendation of, the Chief of Disabled Services. Applicants requesting reasonable accommodations may receive a decision by the Director with a hearing, or may elect to have the decision made by the Director without a hearing.

In evaluating a Request for Reasonable Accommodation, the Director, based upon consultation with, and the recommendation of, the Chief of Disabled Services, shall consider competent, substantial evidence relating to the following:

- Whether the applicant meets the definition of a disabled person.
- Whether there is an identifiable relationship, or nexus, between the requested accommodation and the person's needs.
- Whether a sufficient alternative to the specific initial request exists, if the initial request is determined to be not reasonable.

¹ In this policy the term "reasonable accommodation," which is used in the FHA, 42 U.S.C. § 3604(f)(3)(B), also includes the term "reasonable modification," which is used in the implementing regulation for Title II of the ADA, 28 C.F.R. § 35.130(b)(7).

- Whether granting the request would change the essential nature of the Zoning Code as compared to strict application of the code to the circumstances or the request.
- Whether the request would impose undue financial and administrative burdens on the City.

It is the City's intent that reasonable accommodations be granted where required by federal law. If the Director, based upon the Chief of Disabled Services' recommendation regarding the applicant's claimed disability, determines that the specific request is not reasonable, he/she shall offer, where possible, some other accommodation which would meet the requester's needs. No additional standards or review of Requests for Reasonable Accommodation are required. In making this determination, it shall not be a factor whether there are other neighborhoods or dwellings that could accommodate the person.

The Director and Chief of Disabled Services are entitled to obtain information that is necessary to evaluate if a requested reasonable accommodation may be necessary because of a disability. If a person's disability is obvious, or otherwise known to the Director or Chief, and if the need for the requested accommodation is also readily apparent or known, then the Director or Chief may not request any additional information about the applicant's disability or the disability-related need for the accommodation. However, if the applicant's disability is known or readily apparent to the Director or Chief, but the need for the accommodation is not readily apparent or known, the Director may request only information that is necessary to evaluate the disability-related need for the accommodation. The Director or Chief may not ordinarily inquire as to the nature and severity of an individual's disability, but the Director or Chief may request reliable disability-related information that: (1) is necessary to verify that the person meets the Fair Housing Act and Americans with Disabilities Act's definition of disability, (2) describes the needed accommodation, and (3) shows the relationship between the person's disability and the need for the requested accommodation. Depending on the individual's circumstances, information verifying that the person meets the Act's definition of disability can usually be provided by the individual, but also may come from a doctor or medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability. Once the Director, based upon consultation with the written recommendation of the Chief, has established that the applicant meets the definition of a disabled person, the Director should seek only the information necessary to evaluate if the request is needed because of a disability.

Requests for Reasonable Accommodations shall be personal to the applicant and shall not run with the land, and shall only remain in place for as long as the applicant's need for the request exists or remains. It shall be the responsibility of the property owner to remove or correct any non-conforming zoning code standard authorized in an approved Request for Reasonable Accommodation only when the need for the accommodation ends.

No fees or costs may be imposed for Request for Reasonable Accommodation applications.

Supporting documentation must be submitted five (5) days prior to the date established for the decision, or before or at the hearing if one takes place.

Accommodation Request Process

Step 1. Accommodation requests may be made orally or in writing to the Planning and Development Department.

If an application is received orally, Planning and Development Department staff shall provide assistance in completing the written application.

Step 2. Upon receipt of the Request for Reasonable application, the Planning Director shall notify the Chief of Disabled Services of the request to determine whether the application is complete within five (5) working days. If it is determined that the application is not complete, written notice shall be provided to the applicant within three (3) working days specifying the deficiencies. If the application is complete, written notice shall be provided that the application is deemed complete and requesting whether the applicant wants a formal hearing or a decision without a hearing.

Step 3. **Applicant Requests Hearing:** If the applicant chooses to have a hearing on the application, the Director shall schedule a hearing on the application on a date certain at least fourteen (14) days after notice is posted but within thirty (30) days after the application has been deemed complete. The Director shall make a decision within five (5) business days of the hearing.

Decision Without A Hearing: If the applicant elects to receive a decision without a hearing, the Director shall establish the date of decision to be at least fourteen (14) days after notice is posted but within thirty (30) days after the application has been deemed complete. The Director shall make the decision on the date established.

Step 4. Notice of Request for Reasonable Accommodation shall be given within three (3) days of the receipt of a complete application by the Department by posting signs on the subject property at intervals of not more than 200 feet along all street sides of property upon which the request is made. The signs shall indicate the request and information on how, and by when, participation is allowed. The Department shall also post notice at City Hall and the Planning and Development Department in the specified location for posted notices within three (3) days after receipt of a complete application. Persons wishing to provide competent, substantial evidence related to the application shall provide those comments in writing to the Director five (5) days prior to the date established for the decision, or may provide such evidence before or at the hearing if one takes place.

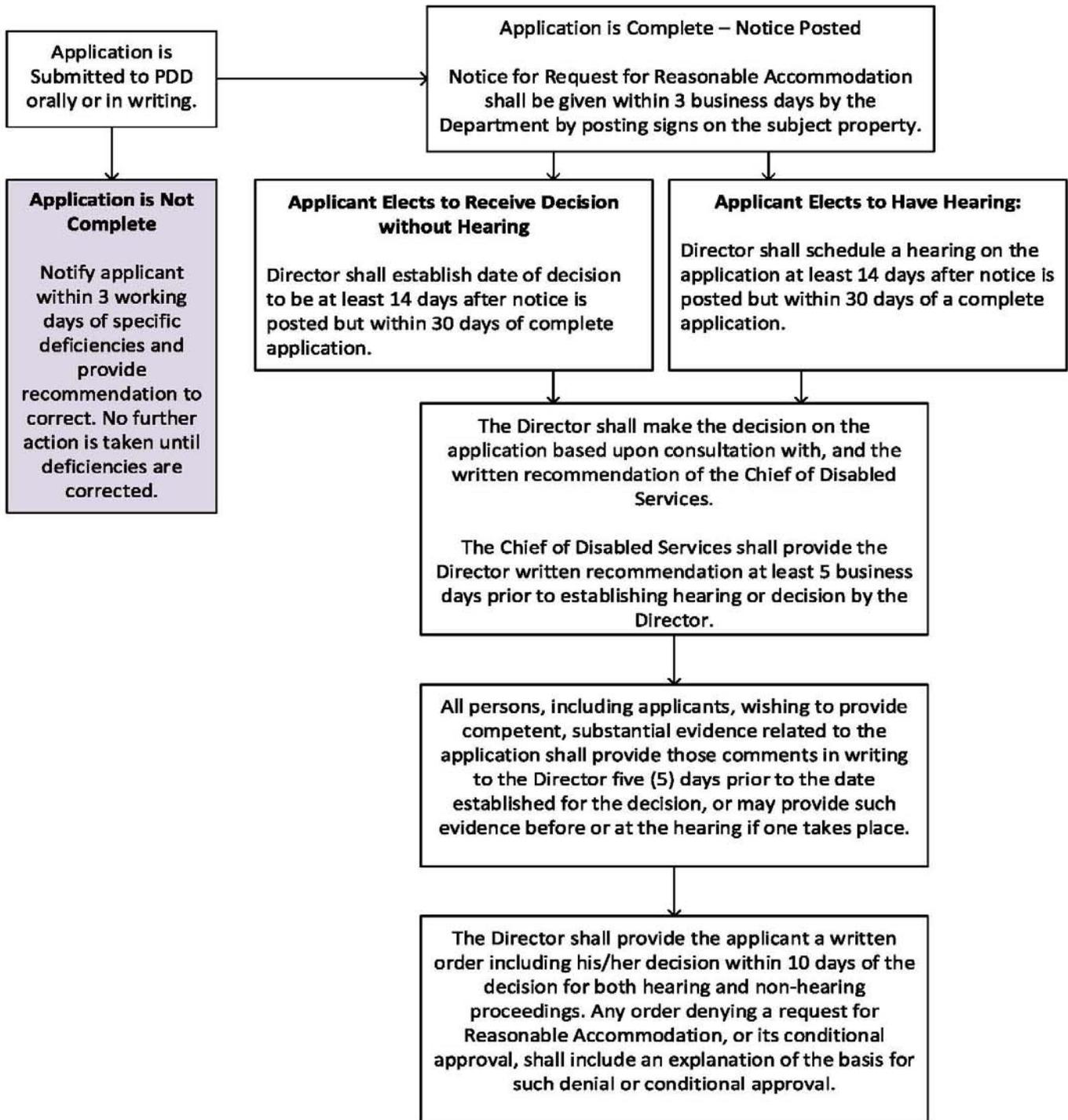
Step 5. The Chief of Disabled Services shall provide the Director with a written recommendation on the applicant's request at least five (5) business days prior to the date established for the decision by the Director, or the date of the hearing if one is scheduled to take place.

Step 6. The Director shall provide the applicant a written order including his/her decision within ten (10) days of the date of the decision for both hearing and non-hearing proceedings. Any order denying a Request for Reasonable Accommodation, or its conditional approval, shall include an explanation of the basis for such denial or conditional approval.

Appeal Process

Decisions on Requests for Reasonable Accommodation are appealable to the City Council pursuant to the procedures identified in sections 656.140-145 of the City's zoning code. The Council's review of the appeal shall be limited to a consideration of whether the Request for Reasonable Accommodation criteria were properly considered and applied, taking all laws, ordinances and other judicial or legal guidance into consideration, and whether sufficient alternatives were evaluated.

Request for Reasonable Accommodation Process
Planning and Development Department



Application for Request for Reasonable Accommodation in Accordance with the Americans with Disabilities Act and Fair Housing Act



Prepared by

Disabled Services

Part 1 of the application for Request for Reasonable Accommodation in accordance with the Americans with Disabilities Act and Fair Housing Act

Applicant Instructions:

- A. Who Should File the Application:** Applicants seeking Request for Reasonable Accommodation for a disability under the federal regulations provided by the Americans with Disabilities Act (ADA) and Fair Housing Act (FHA) should complete this application. Applicants may include individuals with disabilities or persons, entities, or groups on behalf of individuals with disabilities.
- B. Documentation Needed:** The Director of the Planning and Development Department and Chief of Disabled Services are entitled to obtain information that is necessary to evaluate if a requested reasonable accommodation may be necessary because of a disability. The Director or Chief may not ordinarily inquire as to the nature and severity of an individual’s disability, however, the Director or Chief may request reliable disability-related information that: (1) is necessary to verify that the person meets the Fair Housing Act and Americans with Disabilities Act’s definition of “disability”, (2) describes the needed accommodation, and (3) shows the relationship between the person’s disability and the need for the requested accommodation.
- C. Review:** Review of a Request for Reasonable Accommodation will be deferred until application is deemed complete.
- D. Confidentiality:** To protect confidentiality, only send supporting documentation separately to the address below. All materials received will be held in confidence to the fullest extent allowed by law.
- E. Returning the Application:** send your completed application and supporting documentation to:

City of Jacksonville			
Planning and Development Department – Director (or designee)			
214 North Hogan Street, Suite 300			
Jacksonville, FL 32202			
phone: (904) 255-7813	fax: (904) 255-7886	Email: BILLK@coj.net	

Section 1: Personal Data

Name: _____

	First	Middle Initial	Last
--	-------	----------------	------

Mailing Address: _____

	City	State	Zip Code
--	------	-------	----------

Phone Numbers:

(____) _____ (Home)	(____) _____ (Work)
(____) _____ (Mobile)	_____ (Email)

Section 2: Explanation of Accommodation Requested (Include information regarding how granting this request is necessary to accommodate your disability)

Type of Request: _____

Attachment 2: Confirmation of Request

CONFIRMATION OF REQUEST
FOR REASONABLE ACCOMMODATION

Instructions: Director of Planning and Development Department will deem an application complete upon successful completion of this application and notify the applicant in writing.

1. _____ Applicant's Name Date of Request _____ _____ Applicant's Telephone Number
2. TYPE OF ACCOMMODATION REQUESTED, IF KNOWN <i>(Be as specific as possible)</i>
3. REASON FOR REQUEST
4. DECISION TYPE (Please circle one): Formal Hearing Director Decision
(Planning and Development Director will assign) Log No.: _____ Hearing Date, if applicable: _____ Decision Date: _____

Attachment 3: Resolution of Reasonable Accommodation Request

RESOLUTION OF REASONABLE ACCOMMODATION REQUEST

Instructions: To be completed by the City of Jacksonville's Director of Planning and Development Department.

1. **Name of Individual requesting reasonable accommodation:**

2. **Accommodation(s) requested:**

3. **Accommodation(s):**

_____ approved as specifically requested

_____ approved but different from original request*

_____ denied

***If the approved accommodation is different from the one(s) originally requested, identify the reason why the initial request was not appropriate and the alternative accommodation(s):**

4. **If an alternative accommodation was offered, indicate whether it was:**

_____ accepted

_____ rejected

5. **Request denied because: (may check more than one box)**

- Requestor does not have a disability
- Accommodation lacks nexus to disability
- Accommodation would cause undue financial or administrative hardship on the City
- Accommodation would change the essential nature of the Zoning Code
- Medical documentation inadequate (please provide a description of efforts made to obtain necessary info)
- Other (Please identify) _____

6. **Detailed reason(s) for denial (Must be specific, e.g., *why* accommodation lacks a nexus to the disability or causes undue financial and administrative hardship on the City):**

If the Director offered an accommodation that is different from the one originally requested, explain: (a) the reasons for the denial of the accommodation originally requested; and (b) why the alternative accommodation would be effective.

An individual who disagrees with the resolution of the request may appeal the decision with City Council pursuant to the procedures identified in sections 656.140-145.

Printed Name of Director, Planning and Development Department

Signature

Date reasonable accommodation denied/approved _____

Attachment 4: Recommendation of Resolution of Reasonable Accommodation Request

REASONABLE ACCOMMODATION INFORMATION REPORTING FORM

Instructions: To be completed by the City of Jacksonville's Chief of Disabled Services and returned to the Director of Planning and Development Department.

Name of Individual requesting accommodation: _____

1. Reasonable accommodation: (check one)

- _____ Recommend Approved (Whether it is what was originally requested or an alternative)
- _____ Recommend Denied

(Attach copy of the "Resolution of Reasonable Accommodation Request" form.)

2. Date accommodation requested: _____

3. Who received request: _____

4. Date accommodation request referred to Chief of Disabled Services, if applicable:

5. Recommendation that individual does _____ does not _____ have a disability as defined by the zoning code; or no disability determination made _____

If no determination is made, provide a brief description why _____

If recommendation that individual does not have a disability, describe why, including what information was requested to confirm denial _____

6. Recommendation that there is _____ is not _____ an identifiable relationship, or nexus, between the requested accommodation and the applicant's needs.

7. Recommendation that there is _____ is not _____ a sufficient alternative to the specific request.

8. Recommendation that the request would _____ would not _____ change the essential nature of the Zoning Code.

Check here if unsure _____ and provide a brief description why _____

9. Recommendation the request would _____ would not _____ impose undue financial and administrative burdens to the City.

10. Date accommodation recommended approved or denied: _____

11. Was medical information required to process this request? If yes, explain why _____

12. Sources of technical assistance, if any, consulted in trying to identify possible reasonable accommodations (*e.g., disability organization*):

13. Comments: _____

14. Please attach all documentation connected with this request.

Printed Name of Chief of Disabled Services

Signature