

Reasonable Accommodation Policy (5.16.23)

I. Introduction

It is the policy of the Village of Hinsdale, Illinois, 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) to the Village's zoning, land use, and other regulations, codes, rules, policies and practices in order to ensure equal access to housing and to facilitate the development of housing for individuals with disabilities. This includes waiving certain requirements when necessary to eliminate barriers to housing opportunities and to ensure a person with a disability has an equal opportunity to use and enjoy a dwelling.

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. Nothing in this Policy shall require persons with disabilities or operators of homes for persons with disabilities who are already acting or operating in accordance with applicable zoning or land use laws or practices to seek a reasonable accommodation.

II. Publication of Policy

The Village shall display a notice consistent with the display of other notices at the Community Development Department 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 and shall also be posted on the Government page of the Village's website.

III. Definitions

As used in this Policy, "person with a disability" has the meaning set forth in the federal Fair Housing Act and the Americans 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.

As used in this Policy, "reasonable accommodation" means the act of making a dwelling unit or housing facility(ies) readily accessible to and usable by a person with disabilities, through the removal of constraints in the Village's land use, zoning, code, permit and processing procedures. A reasonable accommodation controls over a conflicting Village regulation or requirement.

IV. Requesting an Accommodation

An application for an accommodation may be made by any person(s) with a disability, his or her representative, a developer or provider of housing for persons with disabilities, or an agency, organization, or entity that provides residential services to persons with disabilities. A request for accommodation may be submitted at any time the accommodation may be necessary to afford the person with a disability equal opportunity to use and enjoy the dwelling. A written acknowledgement of the request shall be sent to the applicant by the Village within ten (10) days of receipt.

Requests for an accommodation may include a modification or exception to the rules, standards and practices for the siting, development, code enforcement, and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to a dwelling of his or her choice.

An individual requesting an accommodation shall direct the request to the Director of the Community Development Department. The request may be made orally, in which case it shall be transcribed by the Village into writing if requested by the applicant, or by the applicant in writing. The individual shall submit an application for a reasonable accommodation using an appropriate Village form, to be provided by the Village. The Village shall assist the applicant with furnishing all information maintained by the Village with respect to an accommodation.

The applicant shall provide the following:

1. Name and address of the person or entity requesting accommodation. If the applicant is applying on behalf of a person with a disability, the name and address of the person with a disability shall also be provided. The accommodation need not be on behalf of a specific person with a disability, as long as the person requesting the accommodation verifies that the housing is intended for the use of persons with disabilities.

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19 East Chicago Avenue
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2. Address of the property for which the accommodation is requested.
3. Indication of whether that the applicant is (a) a person with a disability, (b) applying on behalf of a person with a disability, (c) a developer or provider of housing for one or more person(s) with a disability, or (d) a provider of residential services for a person 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 persons with disabilities financially or practically feasible.

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 with a disability and shall not be made available for public inspection unless required by the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.*) or other State law. Any information received regarding the disability status identified, including but not limited to medical records, will be returned to the applicant within ten (10) days of the decision by the Village, subject to the Village's obligations to retain the records pursuant to the Local Records Act, 50 ILCS 205/1 *et seq.* The Applicant need provide only the information necessary for the Village to evaluate the reasonable accommodation request.

If the person with the disability needs assistance to make a request for accommodation, the Village will provide assistance, including, but not limited to, transcribing a verbal request into a written request. The applicant shall sign or indicate in writing that the transcription is accurate.

A fee shall not be required for an application for an accommodation.

V. Review of Reasonable Accommodation Request

The Village Manager shall issue a written decision on a request for accommodation within forty-five (45) calendar days of the date of the application. The Village Manager may either grant, grant with alterations or conditions, or deny a request for an accommodation in accordance with the required findings set forth below.

If necessary to reach a determination on the request for accommodation, the Village Manager may request further information from the applicant consistent with applicable laws, specifying in detail the additional information that is required. In most cases, an individual's medical records or detailed information about the nature of a person's disability are not necessary for this inquiry. (See Joint Statement of The Department of Housing & Urban Development & The Department of Justice: Reasonable Accommodations Under the Fair Housing Act #18.) 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 Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.*) or other State law. Any information received regarding the disability status identified, including but not limited to medical records, will be returned to the applicant within ten (10) days of the decision of the Village Manager (or, in the event of an appeal, within ten (10) days of the decision of the Board of Trustees of the Village). If a request for additional information is made, the running of the forty-five (45) calendar day period to issue a decision is stayed until the applicant responds to the request.

The written decision to grant, grant with alterations or conditions, or deny a request for accommodation shall be limited to the following factors:

1. Whether the housing that is the subject of the request for accommodation will be used by a person with a disability as defined by the FHA or ADA.
2. Whether the requested accommodation is necessary to make a dwelling available to a person with disabilities protected under the applicable laws.
3. Whether the requested accommodation would pose an undue financial or administrative burden on the Village. The determination of undue financial and administrative burden will be done on a case-by-case basis. A finding

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of
financial or
administrative burden" shall not be based on whether the requested accommodation would provide a preference or permit the housing in question to not comply with otherwise-applicable laws, ordinances, rules, codes, policies or practices that others must obey.

4. Whether the requested accommodation would require a fundamental alteration in the nature of a Village program or law, including but not limited to zoning and land use. A finding of "fundamental alteration" shall not be based on whether the requested accommodation would provide a preference or permit the housing in question to not comply with otherwise-applicable laws, ordinances, rules, codes, policies or practices that others must obey.

In making findings, the Village Manager may grant reasonable accommodations with alterations or conditions if the Village Manager determines that the applicant's initial request would impose an undue financial or administrative burden on the Village, or fundamentally alter a Village program or law. The alterations or conditions shall provide an equivalent level of benefit to the applicant with respect to (a) enabling the person(s) with a disability to use and enjoy the dwelling, and (b) making the provision of housing for person(s) with a disability financially or practically feasible.

The written decision of the Village Manager on an application for an accommodation shall explain in detail the basis of the decision, including the Village Manager's findings on the criteria set forth below. 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 this Policy. 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 Village.

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.

If the Village Manager fails to render a written decision on the request for accommodation within forty-five (45) days, the accommodation request shall be deemed granted.

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VI. Appeal

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 to the Board of Trustees of the Village (the "Board") no later than thirty (30) calendar days from the date the decision is mailed or e-mailed. An appeal may be sent to the Village by email at clerk@villageofhinsdale.org or by mail or hand delivery to the following address:

**Village Board of Trustees
Village of Hinsdale
ATTN: Reasonable Accommodation Appeals
19 Chicago Ave.
Hinsdale, IL 60521**

An appeal must be in writing (or reduced to writing as provided 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 Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.*) or other State law. Any information received regarding the disability status identified, including but not limited to medical records, will be returned to the applicant within ten (10) days of the decision by the Village.

If an applicant needs assistance appealing a written decision, the Village will provide assistance transcribing a verbal request into a written appeal to ensure that the appeals process is accessible. The applicant shall sign or indicate in writing that the transcription is accurate.

An applicant shall not be required to pay a fee to appeal a written decision.

An appeal will be decided by the Board. In considering an appeal, the Board shall consider:

(a) the application requesting the accommodation, (b) the Village Manager's decision, (c) the applicant's written statement of the grounds of the appeal, and (d) the provisions of this Policy, in order to determine whether the Village Manager's decision was consistent with applicable fair housing laws and the required findings in this Policy.

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If a written decision on the appeal is not rendered within thirty (30) calendar days from the date the appeal is received, the requested accommodation shall be deemed granted.

The decision of the Board shall constitute the Village's final determination on the request for reasonable accommodation.

VII. Other Provisions

A request for accommodation shall stay any and 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.

The Village shall retain, for the duration of the accommodation and at least three (3) years thereafter, written records of each request and all related records, including the Village's responses and decisions.

The person or entity requesting an accommodation may file an action at any time in court to challenge the Village's denial of a reasonable accommodation under the Fair Housing Act, the Americans with Disabilities Act and/or any other applicable federal, state, or local law. Such persons or entities shall not, solely by virtue of having requested an accommodation under this Policy, be barred, estopped or otherwise limited in bringing an action in court against the Village to challenge the denial of a reasonable accommodation.