

CITY OF EDEN PRAIRIE REASONABLE ACCOMMODATIONS POLICY

Section. 1. Policy and purpose. It is the policy of the City, pursuant to the Federal Fair Housing Amendments Act of 1988, to provide reasonable accommodation for persons with disabilities seeking fair and equal access to housing in the application of its zoning regulations. Reasonable accommodation means providing an individual with a disability¹ or developers of housing for an individual with a disability, flexibility in the application of land use and zoning regulations or policies (including the modification or waiver of certain requirements), when it is necessary to eliminate barriers to housing opportunities. The purpose of this policy is to establish a process for making and acting upon requests for reasonable accommodation.

Section 2. Initiation of reasonable accommodation request. Any person who requests reasonable accommodation in the form of modification in the application of a zoning regulation which may act as a barrier to fair housing opportunities due to the disability of existing or proposed residents, may do so on an application form provided by the City Planner. “Person” includes any individual with a disability, his or her representative or a developer or provider of housing for an individual with a disability. The application shall include a detailed explanation of why the modification is reasonably necessary to make the specific housing available to the person(s), including information establishing that the applicant is disabled under applicable laws, as well as other information required by the City Planner to make the determination. If the project for which the request is being made also requires an additional land use review or approval, then the applicant shall file the request concurrently with the land use review.

Section. 3. City Planner determination; required findings. The City Planner or designee thereof, in consultation with appropriate City staff and the City attorney, shall have the authority to consider and act on requests for reasonable accommodation. The City Planner shall issue a written decision in which the request is approved, approved subject to conditions, or denied. In making the decision, the following factors shall be considered:

- A. Special need created by the disability.
- B. Potential benefit that can be accomplished by the requested modification.
- C. Need for the requested modification, including alternatives that may provide an equivalent level of benefit.
- D. Physical attributes of and any proposed changes to the subject property and structures.
- E. Potential impact on surrounding uses.

¹ The Fair Housing Act (FAA) uses the term “handicap” which has been interpreted as the same as a “disability” under the ADA. Disability is the more commonly used term and accordingly is used here. Under the FAA “[Handicap](#)” means, with respect to a [person](#)— (1) a [physical or mental impairment](#) which substantially limits one or more of such [person](#)’s major life activities, (2) a record of having such an impairment, or (3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a [controlled substance](#) (as defined in [section 802 of title 21](#)).

- F. Whether the requested modification would constitute a fundamental alteration of the zoning regulations, policies, and/or procedures of the city.
- G. Whether the requested modification would impose an undue financial or administrative burden on the city.
- H. Family is defined in City Code Section 11.02 as “one or more persons related by blood, marriage or adoption, including foster children, or a group of not more than five persons (excluding servants) some or all of whom are not related by blood, marriage, or adoption, living together and maintaining a common household but not including sororities, fraternities, or other similar organizations”. This definition of family is established for the purpose of preserving the character of residential neighborhoods by controlling population density, noise, disturbance and traffic congestion, and shall not be applied so as to prevent the City from making reasonable accommodation where the City determines it is necessary to afford handicapped persons living together in a permanent household equal access to housing pursuant to the Federal Fair Housing Amendments Act of 1988.
- I. Any other factor that may have a bearing on the request as determined by the City Planner.

Section. 4. Notice of decision; appeal.

- A. The written decision of the City Planner shall be mailed to the applicant and to the owners of record of all properties which abut the property which is the subject of the reasonable accommodation request. All written decisions shall give notice of the right to appeal a decision of the City Planner as provided in the following paragraph. Only the aggrieved applicant and abutting property owners have a right to appeal the decision. The decision of the City Planner shall constitute the final decision of the City, unless appealed.
- B. Appeals and any complaints referred to the City under 24 C.F.R. § 103.100, shall be heard by an Administrative Law Judge in the Minnesota Office of Administrative Hearings. The Administrative Law Judge shall conduct the proceedings according to the contested case procedures of Minnesota Statutes Chapter 14, and make a decision supported by written findings. The decision of the Administrative Law Judge shall constitute the final decision of the City. Any person aggrieved by the final decision is entitled to judicial review of the decision under the provisions of Minnesota Statutes sections 14.63 to 14.68. An appellant shall have no right to a hearing before or decision by the City Council.

Section 5. Applicability. If the city grants the request, the request shall be granted only for the duration of the use of the property by individuals who are eligible for reasonable accommodation. The request shall not run with the land unless the City Planner determines that the modification is physically integrated into the residential structure and cannot easily be removed or altered to comply with City Code or the accommodation is to be used by another individual with a disability.

Section. 6. Conditions and guarantees. Prior to the issuance of any permits relative to an approved reasonable accommodation request, the City Planner may require as a condition of approval that the applicant to record a covenant acknowledging and agreeing to comply with the terms and conditions established in the determination referred to in Section 3.

Section 7. Fee. There shall be no fee imposed in connection with a request for reasonable accommodation made pursuant to the provisions of this policy.



CITY OF EDEN PRAIRIE

REASONABLE ACCOMODATION APPLICATION 2019



APPLICANT/ FEE OWNER INFORMATION	Applicant: _____ Address: _____ City/State/Zip: _____ Phone: _____ Fax: _____ Email Address: _____	
	Fee Owner (if different than Applicant): _____ Address: _____ City/State/Zip: _____ Phone: _____ Fax: _____ Email Address: _____	
REQUEST	Request: Attach additional sheets if necessary	
SUBMISSION REQUIREMENTS AND PROCESS	SEE REVERSE SIDE FOR REQUIREMENTS & PROCESS Planning Main Line: 952-949-8485 Email: planning@edenprairie.org	
REQUIRED SIGNATURES	Applicant: _____ DATE: _____ Fee Owner: _____ DATE: _____	

OFFICE USE ONLY

RECEIVED BY	
DATE RECEIVED	
COMPLETED APPLICATION DATE	
RECEIPT NUMBER	
CHECK NAME & ADDRESS	

Required Application Materials and Process:

1. A detailed explanation of why the modification is reasonably necessary to make the specific housing available to the person(s), including information establishing that the applicant is disabled under applicable laws, as well as, other information required by the City Planner to make the determination. Information to be shared in the explanation may include the following:
 - A. Special need created by the disability.
 - B. Potential benefit that can be accomplished by the requested modification.
 - C. Need for the requested modification, including alternatives that may provide an equivalent level of benefit.
 - D. Physical attributes of and any proposed changes to the subject property and structures.
 - E. Potential impact on surrounding uses.
 - F. Whether the requested modification would constitute a fundamental alteration of the zoning regulations, policies, and/or procedures of the city.
 - G. Whether the requested modification would impose an undue financial or administrative burden on the city.
 - H. Any other factor that may have a bearing on the request as determined by the City Planner.
2. Any site plans, photos, or other documents requested by staff to fully explain the reasonable accommodation request to the City Planner.
3. The written decision of the City Planner shall be mailed to the applicant and to the owners of record of all properties which are immediately adjacent to the property which is the subject of the reasonable accommodation request. All written decisions shall give notice of the right to appeal a decision of the City Planner as provided in the following paragraph. Only the aggrieved applicant and immediately adjacent property owners who received notice of the written reasonable accommodation determination have a right to appeal the decision. The decision of the City Planner shall constitute the final decision of the City, unless appealed.
4. Appeals shall be heard by an administrative law judge. The administrative law judge shall hold a hearing and make a decision supported by written findings. The decision of the administrative law judge shall constitute the final decision of the City. An appellant shall have no right to a hearing before or decision by the City Council.
5. If the City grants the request, the request shall be granted to an individual for the duration of the individual's residence on the subject property. The request shall not run with the land unless the City Planner determines that the modification is physically integrated into the residential structure and cannot easily be removed or altered to comply with City Code or the accommodation is to be used by another individual with a disability.