

ORDINANCE NO. _____

**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 of Austin.
- (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 of Austin 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.

- 1 (3) DIRECTOR means the department head or City official with authority to
2 administer, implement, or enforce a requirement that is the basis of the
3 request for a reasonable accommodation.
- 4 (4) DISABILITY means a physical or mental impairment which substantially
5 limits one or more major life activities; a record of such impairment; or
6 being regarded as having such an impairment, but does not include current,
7 illegal use of a controlled substance.
- 8 (5) ELIGIBLE INDIVIDUAL means an individual with a disability, a
9 representative of the individual with a disability, or a person that lives, or
10 will live, with the individual with a disability.
- 11 (6) REQUIREMENT means a provision of the City Code, an uncodified
12 ordinance, a rule or regulation adopted pursuant to Chapter 1-2 (*Adoption of*
13 *Rules*), or an administrative policy or procedure.

14 **§2-14-4 EFFECT.**

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16 A reasonable accommodation controls over a conflicting City requirement.
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18 **§2-14-5 AUTHORITY OF DIRECTOR.**

- 19
20 (A) A director has the authority to grant a reasonable accommodation. An
21 accommodation is reasonable when the accommodation may be necessary to afford
22 an individual with a disability an equal opportunity to use and enjoy a dwelling.
- 23 (B) A director has the authority to grant an accommodation with conditions as an
24 alternative reasonable accommodation.
- 25 (C) A director must deny a request for an unreasonable accommodation. An
26 accommodation is unreasonable when the accommodation imposes an undue
27 financial or administrative burden on the City; or requires a fundamental alteration
28 in the nature of the City's land use and zoning regulations.

29 **ARTICLE 2. PROCESS**

30 **§2-14-11 REQUEST PROCESS.**

- 31 (A) A request for an accommodation may be submitted at any time the accommodation
32 may be necessary to afford an individual with a disability an equal opportunity to
33 use and enjoy a dwelling.

1 (B) If an eligible individual needs assistance making a request for an accommodation,
2 the director will provide assistance.

3
4 (C) A request must be submitted in writing to the director by an eligible individual.

5
6 (D) A request must include, at a minimum, the following information:

7
8 (1) name and address of the applicant requesting the accommodation;

9 (2) name and address of the property owner(s), if not the same as the applicant;

10 (3) address of the property for which the accommodation is requested;

11 (4) date of the request;

12 (5) description of the requested accommodation and the requirement for which
13 accommodation is sought; and

14 (6) reason that the requested accommodation may be necessary for the
15 individual(s) with the disability to use and enjoy the dwelling.

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

17 **§2-14-12 DECISION ON AN ACCOMMODATION.**

18 (A) The director shall review a request for an accommodation and issue a written
19 decision on the request no later than 20 business days from the date the request is
20 received. The written decision must state the basis of the decision, including the
21 factors described in Subsection (D).

22 (B) If the director fails to render a written decision within 20 business days, the request
23 is deemed granted.

24 (C) If necessary to reach a determination on the request for an accommodation, the
25 director may request further information from the applicant consistent with FHAA.
26 The request must specify the information that is required. In the event additional
27 information is requested, the 20 business day period to issue a decision is stayed
28 until the applicant responds to the request.

29 (D) The written decision on a request for an accommodation shall be consistent with
30 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

(E) 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.

(F) An alternative reasonable accommodation may be the requested accommodation with conditions. The conditions must relate specifically to the disability that causes the need for the accommodation.

(G) Before the director denies a request for an accommodation, the director must consult with the City Attorney.

(H) If the director denies the requested accommodation, the decision must include a proposed alternative reasonable accommodation.

(I) 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.

(D) An applicant is not required to pay a fee to appeal a written decision.

1 (E) An appeal will be decided by the City Manager's designee.

2 (F) If a written decision on the appeal is not rendered within 20 business days from the
3 date the appeal is received, the requested accommodation shall be deemed granted.

4 (G) Consideration of an appeal is subject to the same standards set forth in Section 2-
5 14-12.

6 **PART 2.** This ordinance takes effect on _____, 2015.

7 **PASSED AND APPROVED**

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9 §
10 §
11 _____, 2015 § _____
12 Steve Adler
13 Mayor
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16 **APPROVED:** _____
17 Anne L. Morgan
18 Interim City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk