

ARTICLE 22-IV REASONABLE ACCOMMODATION POLICY**Sec 22-100 Introduction**

It is the policy of the City of Aurora, Illinois, pursuant to the Fair Housing Amendments Act of 1988, the Americans with Disabilities Act, and applicable State laws, to provide persons with disabilities reasonable accommodations (including modifications or exceptions) to the City'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 persons 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 Article 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 Article 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 reasonable accommodation.

Sec 22-101 Publication of Article

1 The City shall display a notice consistent with the display of
2 other notices at the City Hall and on the City's website advising
3 those with disabilities or their representatives that they may
4 request a reasonable accommodation in accordance with the
5 procedures established in this Article. A copy of the notice shall
6 be available upon request and shall also be posted on the
7 Government page of the City's website.

8 **Sec 22-102 Definitions**

9 (a) As used in this Article, "Hearing Officer" means a person
10 licensed to practice law in good standing in the State of Illinois.
11 The Hearing Officer shall be appointed in the manner set forth in
12 Chapter 3 of the City of Aurora's Code of Ordinances.

13 (b) As used in Article, "person with a disability" has the meaning
14 set forth in the federal Fair Housing Act and the Americans with
15 Disabilities Act and is an individual who has a physical or mental
16 impairment that limits one or more of the major life activities of
17 such individual, is regarded as having such impairment, or has a
18 record of such impairment.

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

1 **Sec 22.103 Requesting an Accommodation**

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

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

18 An individual requesting an accommodation shall direct the request
19 to the zoning administrator. The request may be made orally, in
20 which case it shall be transcribed by the City into writing if
21 requested by the applicant, or by the applicant in writing. The
22 individual shall submit an application for a reasonable
23 accommodation using an appropriate City form, to be provided by

1 the City. The City shall assist the applicant with furnishing all
2 information maintained by the City with respect to an accommodation.

3 The applicant shall provide the following:

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

12 2. Address of the property for which an accommodation is
13 requested.

14 3. Indication of whether that the applicant is (a) a person
15 with a disability, (b) applying on behalf of a person with
16 a disability, (c) a developer or provider of housing for
17 one or more per-son(s) with a disability, or (d) a provider
18 of residential services for a person with a disability.

19 4. Description of the disability at issue, the requested
20 accommodation, and the specific regulation(s), policy,
21 practice or procedure for which the accommodation is sought.
22 In the event that the specific individuals who are expected
23 to reside at the property are not known to a provider in
24 advance of making the application, the provider shall not

1 be precluded from filing the application, but shall submit
2 details describing the range of disabilities that
3 prospective residents are expected to have to qualify for
4 the housing.

5 5. Description of whether the specific accommodation
6 requested by the applicant is necessary for the person(s)
7 with the disability to use and enjoy the dwelling, or is
8 necessary to make the provision of housing for persons with
9 disabilities financially or practically feasible.

10 Any personal information regarding disability status identified by
11 an applicant as confidential shall be retained in a manner so as
12 to respect the privacy rights of the applicant and/or person with
13 a disability and shall not be made available for public inspection
14 unless required by the Illinois Freedom of Information Act, 5 ILCS
15 140/1 et seq.) or other State law. Any information received
16 regarding the disability status identified, including but not
17 limited to medical records, will be returned to the applicant
18 within ten (10) days of the decision by the City, subject to the
19 City's obligations to retain the records pursuant to the Local
20 Records Act, 50 ILCS 205/1 et seq. The Applicant need provide only
21 the information necessary for the City to evaluate the reasonable
22 accommodation request.

23 If the person with the disability needs assistance to make a
24 request for accommodation, the City will provide assistance,

1 including, but not limited to, transcribing a verbal request into
2 a written request. The applicant shall sign or indicate in writing
3 that the transcription is accurate.

4 A fee shall not be required for an application for an accommodation
5 under this Article.

6 Representatives of the city will also have an opportunity to submit
7 information they believe to be relevant to the hearing officer's
8 review. The hearing officer shall review the information provided
9 and shall incorporate it into the hearing officer's decision.

10 **Sec 22.104 Review of Reasonable Accommodation Request**

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

17 If necessary to reach a determination on the request for
18 accommodation, the Hearing Officer may request further information
19 from the applicant consistent with applicable laws, specifying in
20 detail the additional information that is required. In most cases,
21 an individual's medical records or detailed information about the
22 nature of a person's disability are not necessary for this inquiry.

23 (See Joint Statement of The Department of Housing & Urban
24 Development & The Department of Justice: Reasonable Accommodations

1 Under the Fair Housing Act #18.) Any personal information related
2 to the disability status identified by the applicant as
3 confidential shall be retained in a manner to protect the privacy
4 rights of the applicant and shall not be made available for public
5 inspection unless required by the Illinois Freedom of Information
6 Act, 5 ILCS 140/1 et seq.) or other State law. Any information
7 received regarding the disability status identified, including but
8 not limited to medical records, will be returned to the applicant
9 within ten (10) days of the decision of the Hearing Officer.

10 If a request for additional information is made, the running of
11 the forty-five (45) calendar day period to issue a decision is
12 stayed until the applicant responds to the request in full.

13 The applicant shall have a maximum of thirty (30) calendar days to
14 respond to the request for additional information. If the applicant
15 fails to respond within this thirty (30) day period, the
16 application may be considered withdrawn, unless the applicant
17 provides a written request for an extension before the expiration
18 of the thirty (30) day period, which may be granted at the
19 discretion of the Hearing Officer.

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

1 1. Whether the housing that is the subject of the request for
2 accommodation will be used by a person with a disability
3 as defined by the FHA or ADA.

4 2. Whether the requested accommodation is necessary to make a
5 dwelling available to a person with disabilities protected
6 under the applicable laws.

7 3. Whether the requested accommodation would pose an undue
8 financial or administrative burden on the City. The
9 determination of undue financial and administrative burden
10 will be done on a case-by-case basis. A finding of "undue
11 financial or administrative burden" shall not be based on
12 whether the requested accommodation would provide a
13 preference or permit the housing in question to not comply
14 with otherwise-applicable laws, ordinances, rules, codes,
15 policies or practices that others must obey.

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

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

11
12 The written decision of the Hearing Officer on an application for
13 an accommodation shall explain in detail the basis of the decision,
14 including the Hearing Officer's findings on the criteria set forth
15 below. The notice of the decision shall be sent to the applicant
16 by certified mail and electronic mail, if the applicant's
17 electronic mail address is known to the City.

18
19 Nothing herein shall prohibit the applicant, or persons on whose
20 behalf a specific application was filed, from reapplying for an
21 accommodation based on additional grounds or changed circumstances.

22
23 If the Hearing Officer fails to render a written decision on the
24 request for accommodation within forty-five (45) calendar days,

1 the City shall provide the applicant with a written notice of the
2 delay, including the reason for the delay and an estimated timeline
3 for the decision, which in no event shall exceed an additional
4 forty-five (45) calendar days.

5
6 If the decision is not issued within this additional forty-five
7 (45) day period (a total of ninety (90) calendar days from the
8 date of the original application), the applicant may choose to
9 either (a) deem the request denied or (b) agree to further extend
10 the decision-making period by providing written consent to the
11 City. The total extension period shall not exceed ninety (90)
12 calendar days from the original application date unless further
13 extended by mutual agreement in writing.

14
15 **Sec 22-105 Appeal Rights**

16 The Decision of the Hearing Officer shall constitute the City's
17 final determination on the request for a reasonable accommodation.
18 An appeal or challenge of the City's final determination on a
19 request for a reasonable accommodation shall be made by an
20 applicant pursuant to applicable Federal and State law, rules and
21 regulations and must be filed within the time frames prescribed by
22 law.

23
24 **Sec 22-106 Other Provisions**

1 A request for accommodation shall stay any and all proceedings in
2 furtherance of the enforcement of any requirement that is the
3 subject of the request. An accommodation request does not affect
4 an applicant's obligation to comply with other applicable
5 regulations not at issue in the requested accommodation.

6
7 The City shall retain, for the duration of the accommodation and
8 at least three (3) years thereafter, written records of each
9 request and all related records, including the City's responses
10 and decisions.

11
12 The person or entity requesting an accommodation may file an action
13 at any time in court to challenge the City's denial of a reasonable
14 accommodation under the Fair Housing Act, the Americans with
15 Disabilities Act and/or any other applicable federal, state, or
16 local law. Such persons or entities shall not, solely by virtue of
17 having requested an accommodation under this Article, be barred,
18 estopped or otherwise limited in bringing an action in court
19 against the City to challenge the denial of a reasonable
20 accommodation."