

Reasonable Accommodation Policy

Procedure

This procedure implements the policy of the City of Powder Springs ("City") for processing reasonable accommodation requests to its ordinances, rules, policies, and procedures for persons with disabilities and/or handicaps as provided by the Federal Fair Housing Amendments Act (42 U.S.C. 3601, et seq.) ("FHA") and Title II of the Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.) ("ADA"). For purposes of this procedure, a "disabled" individual or person is an individual that qualifies as disabled and/or handicapped under the FHA and/or ADA. Any person who is disabled or a provider of services to the disabled qualifying for a reasonable accommodation may request a reasonable accommodation with respect to the City's land use or zoning laws, and/or rules, policies, practices and/or procedures, as provided by the FHA and the ADA pursuant to the procedures set forth herein. The purpose of a reasonable accommodation is to modify a specific City requirement to ensure an individual with a disability and/or handicap has an equal opportunity to use and enjoy a dwelling, building or structure, or to provide accessibility in another manner.

1. Requests. Requests for reasonable accommodation are required to be made in writing to the City's Community Development Director. Requests shall provide the following information:

- a) The name and contact information of the individual with a disability or handicap (Requestor).
- b) The location where the reasonable accommodation is requested, including address. If the Requestor is not the owner of the property where the reasonable accommodation is being requested then the contact information for the owner is also required to be provided.
- c) A description of the accommodation needed, identifying the ordinances, rules or policies for which the Requestor needs a reasonable accommodation.
- d) A description of why the requested accommodation is necessary.
- e) A certification stating the following:
I CERTIFY UNDER PENALTY OF PERJURY THAT THE INFORMATION PROVIDED IN THIS REQUEST IS TRUE AND CORRECT. I UNDERSTAND THAT IF I KNOWINGLY PROVIDE FALSE INFORMATION WITH THIS REQUEST, MY REQUEST SHALL BECOME NULL AND VOID.
- f) The signature of the Requestor and date.
- g) The attached Verification of Disability Status form executed by someone with personal knowledge of the Requestor's disability, such as a medical or social services professional.
- h) Any additional information or documentation the Requestor feels is necessary to support the request for reasonable accommodation.

2. Review. The Director shall review the request for reasonable accommodation and make a recommendation to the City Manager consistent with the FHA and/or ADA after considering the following:

- a) Whether the Requestor has established that he/she is protected under the FHA and/or ADA by demonstrating that they are handicapped or disabled, as defined in the FHA and/or ADA. To do this, the disabled and/or handicapped

individual must show:

- i) A physical or mental impairment which substantially limits one (1) or more major life activities (please see the attached Verification of Disability Form for definitions);
- ii) That they are regarded as having such impairment; and
- iii) A record of having such impairment.

b) Whether the requested accommodation is reasonable and necessary to afford the Requestor an equal opportunity to use and enjoy the dwelling, building or structure, or provides accessibility in another manner.

c) Whether the requested accommodation would impose an undue financial or administrative burden on the City.

d) Whether the requested accommodation would require a fundamental alteration in the nature of the land use and zoning regulations of the City.

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 regulation, the Director may consider whether an alternative reasonable accommodation exists which would effectively meet the disability-related need. An alternative reasonable accommodation may be the requested accommodation with conditions. In conducting the review, the Director will make a site visit to the property where the reasonable accommodation is being requested.

If the request for reasonable accommodation includes the request for an assistance animal, the Director shall also consider whether:

- a) the specific assistance animal in the request poses a direct threat to the health or safety of others that cannot be reduced or eliminated by another reasonable accommodation; or
- b) the specific assistance animal would cause substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation.

In determining whether the assistance animal poses a threat or would cause substantial physical damage to another's property, the Director can ask for more information on the assistance animal such as the animal's habits, conduct, time spent indoors/outdoors and where the animal is kept.

3. Determination. Once review of the request is complete, the Director shall make a recommendation to the City Manager to:

- a) Grant the accommodation request;
- b) Grant a portion of the request and deny a portion of the request, and/or impose conditions upon the grant of the request; or
- c) Deny the request, in accordance with state and federal law.

The recommendation shall be in writing. If the recommendation is for denial, the reasons for the denial are required to be stated. The City Manager shall review the

Director's recommendation and issue a final decision to grant the accommodation request, grant a portion of the request and/or impose conditions, or deny the request.

The City Manager's final decision on the request shall be in writing and sent to the Requestor by certified mail, return receipt requested. If a denial is issued, the reasons for the denial are required to be stated. All final decisions shall give notice of the right and method to appeal.

4. Appeals. Appeals of the City Manager's decision go to the City Council. The Requestor has 30 calendar days from the date of the City Manager's written decision to appeal to the City Council. Requests for appeal must be in writing, provide the name, address and contact information for the Requestor, state the reason for the appeal and provide a copy of the City Manager's written decision. Requests for appeal must be submitted to the City Clerk for placement on the City Council's agenda. Appeals shall be heard at regularly scheduled City Council meetings.

The City or the applicant may appeal a decision of the City Council as the final decision on the reasonable accommodation request to a court of competent jurisdiction for judicial review as provided by law.

5. No Fee. There shall be no fee imposed by the City in connection with a request for reasonable accommodation. The City shall have no obligation to pay a requesting party's (or an appealing party's, as applicable) attorney fees or costs in connection with the request, or an appeal.

6. Stay of Enforcement. While a request for reasonable accommodation, or its appeal, is pending, the City will not enforce any applicable Code of Ordinances and/or Unified Development Code, rule, policy, or procedure against the Requestor.

7. General Provisions. The following general provisions are applicable:

a) A disabled or handicapped individual (Requestor) may apply for a reasonable accommodation on his/her own behalf or may be represented at all stages of the reasonable accommodation process by an attorney, legally appointed guardian, or other person designated by the disabled individual as a power of attorney.

b) In the event that a reasonable accommodation is granted, the Requestor shall comply with any and all applicable building and/or engineering permitting processes required by the Code of Ordinances and/or Unified Development Code of the City.

c) A reasonable accommodation is specific to the individual with a disability and/or handicap and does not run with the land.

d) A reasonable accommodation does not alter an individual's obligation to comply with other applicable federal, state, county or City requirements, rules, regulations, or laws.

Verification of Disability Status

This form must be completed by someone who knows about the Requestor's disabilities. The City of Powder Springs respects individuals' privacy and will verify disability status, but will not inquire into the nature or severity of a disability. Nor will we ask to see a person's medical records. We will limit our disability inquiry to requiring the Requestor to verify the disability status of individuals for purposes of State and federal law.

Public Records:

Should the information provided on this form or in any other document or information provided by the Requestor to the City include medical information or records, including records indicating the medical condition, diagnosis or medical history of the Requestor, the Requestor may, at the time of submitting such medical information, request that the City, to the extent allowed by law, treat such medical information as confidential information of the Requestor. The City shall thereafter endeavor to provide written notice to the Requestor of any request received by the City for disclosure of the medical information or documentation which the Requestor has previously requested to be treated as confidential. The City will cooperate with the Requestor, to the extent allowed by law, to oppose the disclosure of such medical information or documentation, but the City shall have no obligation to initiate, prosecute or pursue any such action, or to incur any legal or other expenses (whether by retention of outside counsel or allocation of internal resources) in connection therewith, and may comply with any judicial order without prior notice to the Requestor. Notwithstanding the foregoing, in all cases the City is required to and will comply with open records laws.

Definitions:

"persons with disabilities" are persons who: (1) have any "physical or mental impairment" that substantially limits one or more "major life activities"; (2) have a record of having the impairment; and (3) are regarded by others as having the impairment.

A "major life activity" is any task central to most people's daily lives, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

A "physical or mental impairment" includes, but is not limited to, orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism. Anyone with a history of an impairment that limits a major life activity is also a person with disabilities.

Verification:

To the best of my knowledge, information, and belief, the individual who is making the above request for reasonable accommodation meets the definition of “persons with disabilities” because of the following reasons, and I am in a position to know about the person(s)’ disabilities because:

(For example, are you a medical or social services professional that has been seeing or treating the individual?)

Note: Do NOT reveal the nature or severity of the persons’ disabilities.

I affirm under penalty of perjury that the information provided in this verification is true and accurate:

Signature: _____
Name: _____
Date: _____
Address: _____

Telephone: _____