

**Received a request for an
assistance animal or grab bar?**



Let us help you get from start to finish!

**A Housing Professional's Guide to
Reasonable Accommodations and Modifications
Under the Fair Housing Act**



Produced 2015 by the Fair Housing Center of West Michigan



What is a reasonable accommodation or reasonable modification?

Under the Fair Housing Act, a ***reasonable accommodation*** is a change or exception to any rule, policy, procedure or service needed in order for a person with a disability to be able to have equal access to and full enjoyment of their home, such as allowing an assistance animal where there is a “no pet” policy, or allowing a live-in caregiver when a housing policy states “no over-night guests”. A ***reasonable modification*** is a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises, such as the installation of a ramp, grab bar or handrail. Reasonable accommodations and modifications enable independent living and equal access to housing for people with disabilities.



It is important to note that a ***reasonable accommodation*** or ***reasonable modification*** can be made during any part of a housing transaction. If a resident, applicant, or prospective applicant at your property makes a request, you are required to promptly respond and process the request.

What is fair housing?

Federal and Michigan fair housing laws protect people from illegal discrimination in housing based on race, color, religion, national origin, sex, familial status, ***disability***, marital status, and age. Illegal discrimination includes a refusal to make a reasonable accommodation or a refusal to permit a reasonable modification if such would be necessary to afford a person with a disability equal use and full enjoyment of the premises.

The Fair Housing Act defines a person with a ***disability*** to include (1) individuals with a physical or mental impairment that substantially limits one or more major life activities; (2) individuals who are regarded as having such an impairment; and (3) individuals with a record of such an impairment.

Major life activities include:

- **Walking**
- **Breathing**
- **Communicating**
- **Seeing**
- **Hearing**
- **Caring for oneself**
- **Thinking**
- **Learning**
- **And beyond...**

Disabilities include, but are not limited to: Mental/emotional disabilities, developmental disabilities, cancer, auto-immune deficiencies such as HIV, autism, cerebral palsy, multiple sclerosis, heart disease, diabetes, asthma, paraplegia, major depression, recovery from an addiction, and many long-term medical conditions.

Who can make a request for a reasonable accommodation or modification?

Persons with disabilities who reside at your property or belong to your condominium association may make such a request. Applicants or prospective applicants may also make reasonable accommodation requests. Caregivers, relatives, or an advocacy organization may also make a request on behalf of a person with a disability for a reasonable accommodation or reasonable modification. There is no limit on the number of requests a resident, applicant, or prospective applicant can make as sometimes multiple changes are necessary for equal access and enjoyment of the home or apartment.

What do I do if a request is made?

Listen and take notes! A reasonable modification or accommodation request should trigger an “interactive process”, which is a call for meaningful dialogue and action. A housing provider may not ordinarily inquire as to the nature and severity of an individual’s disability. However, once a request for a reasonable accommodation or modification is made, it is a good idea to meet with or contact the person who has made the request (whether the request was made independently or through an advocacy group) to discuss the request further and the disability-related need(s).



How should a reasonable accommodation or modification request be made?

A request can be made verbally or in writing by the resident to any representative of the property at any time (i.e. before they move in, while they move in, or after many years of living in their home). It is usually helpful for both the resident and the housing provider if the request is made in writing. This will help prevent misunderstandings regarding what is being requested, or whether the request was made. An individual requesting a reasonable accommodation does not need to mention the Fair Housing Act or use the words “reasonable accommodation or modification”. You can have a form for such a request, but you cannot require use of that form. You must give appropriate considerations to all requests, even if the request is made verbally or does not use your preferred forms or procedures.

TIP: If you receive a call from an operator calling on behalf a person who is hearing or speech impaired, follow your normal procedures, allow the caller and operator time to respond.

Examples of Reasonable Accommodations:

- Assigning an accessible parking space near a unit
- Waiving a “no pet” or pet fee policy to allow for an assistance animal
- Allowing a move to the ground floor due to changes in their ability to use stairs



Examples of Reasonable Modifications:

- Widening a doorway for a wheelchair
- Installing grab bars in a bathroom
- Installing a ramp to make a main entrance accessible
- Installing handrails in stairwell



How do I process a request?

You need to determine what type of information, if any, you need from the resident regarding their request. The amount of information that you can request depends on whether or not the individual’s disability is obvious or known, and whether or not the disability-related need is readily apparent or known to you.

If the disability is readily apparent or otherwise known to you, you do not need any additional documentation to process the request. For example, an applicant with an obvious mobility impairment who uses a motorized scooter may ask for permission to install a ramp. Since the physical disability (difficulty walking) and the disability-related need (use of scooter) for the requested modification are readily apparent, you may not require any additional information about the disability or the need for the requested modification.

If the disability is not obvious or otherwise known to you, you may request verification of the disability and information establishing a disability-related need for the request. The person with a disability or their advocate can obtain supporting documentation from a doctor or other qualified medical professional, a peer support group, a non-medical service agency, a social worker, or a reliable third party who is in a position to know about the resident’s disability. The supporting document only needs to verify that the person:

- (1) **has a disability as defined by the Fair Housing Act (see page 1) AND**
- (2) **has a disability-related need for the requested accommodation or modification.**

As the housing provider you do not need to know the details of the person’s disability, diagnosis, or health history; *only* that a disability is present and that the request is needed because of the disability.

NOTE: The amount of information that you can request depends on whether or not the individual’s disability is obvious or known, and whether or not the disability-related need is readily apparent or known.



It would be beneficial to designate one agency representative to handle such requests, but be sure that there is someone else who is able to address questions, handle the request process, and provide related updates if the designated person is out. Your role as the housing provider is to collect as much information as is necessary to understand the request being made and to follow up quickly and consistently. It is best to document every step of the process: the request, your response, and all communication related to the decisions and actions taken (see sample documentation on page 6). **It's also important to keep all information confidential.**

What if there are costs involved?

A reasonable accommodation is processed and completed with no cost to the resident with a disability. If the cost of the accommodation is found to be an undue financial and administrative burden, then you *must* discuss possible alternative accommodation methods with the resident or the advocate making the request. Your role in processing the request is to maintain communication and to exhaust all possible alternatives before denying the request. The last resort alternative to an accommodation request may be a discussion about releasing the resident from their lease without penalty because the housing no longer meets their needs.

Reasonable modification costs are usually paid for by the person requesting a modification to their home or unit.* A refusal to permit, at the expense of the person with a disability, the reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford

NOTE: The approval or denial of requests depends on the circumstances presented and needs to be determined on a case-by-case basis.

such person full enjoyment of the premises is illegal discrimination. The approval or denial of such a request depends on the circumstances presented and needs to be determined on a case-by-case basis. You may negotiate terms related to cost and restoration upon moving, so long as it allows the resident the ability to make the modification. Depending on the types of modifications made, as the housing provider, you could ask that the resident agree to pay into an escrow account so that the home or apartment may be restored after the property is vacated.

* The Rehabilitation Act of 1973 states that structural changes needed by a person with a disability in housing that receives federal financial assistance (i.e. HUD subsidized apartment buildings, USDA rural housing developments, and others) are considered reasonable accommodations; they must be paid for by the housing provider unless providing them would be an undue financial and administrative burden or a fundamental alteration of the program or unless the housing provider can accommodate the individual's needs through another means.

When can a request be denied?

A request for an accommodation or modification can be denied for the following reasons:

- (1) **a request for a reasonable accommodation or reasonable modification was not made by or on behalf of a person with a disability, or if there is no disability-related need for the request, and/or**
- (2) **if it would impose undue financial and administrative burden on the housing provider or would fundamentally alter the nature of the provider's operations.**

These determinations should be made on a case-by-case basis involving factors such as the cost of the request, financial resources, the benefit to the requester, and availability of alternative accommodations that would equally meet the requester's needs. If, for one or more of the reasons listed above, you denied the request, alternative methods to accommodate their needs or modify the home or apartment *must* be discussed. It is important that you communicate the different options available with the resident so that they are able to enjoy equal access to and full enjoyment of their home as well as the property.

NOTE: A resident is not obligated to accept an alternative accommodation suggested by the provider if they believe it will not meet their needs and her preferred request is reasonable.

What is an Assistance Animal?

An assistance animal is not a pet. It is an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals *do not need to be trained, certified or licensed* by any entity or program. The Fair Housing Act does not limit the type of animal or the number of animals that a person with a disability may request as a reasonable accommodation.

NOTE: Any animal prescribed by a doctor or other medical professional to assist a person with a disability can be an assistance animal.

Assistance animals perform many disability-related functions, including but not limited to, guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability-related need for such support. Assistance animals can significantly enhance a person's ability to live independently.

NOTE: Pet fees, deposits and/or policies do not apply to assistance animals.

Assistance animals are not subject to any existing pet policies, including pet fees or deposits. *Breed, size, and weight limitations may not be applied to assistance animals.* Assistance animals, once approved, should be allowed in all areas of the premises where persons are normally allowed to go unless there is an undue financial or administrative burden or fundamental alteration of the housing provider's services. The assistance animal must be under the resident's control at all times.

You are not able to deny an assistance animal under the premise that your housing insurance has a policy stating restrictions or prohibitions against certain breeds, sizes, or number of animals. If a housing provider's insurance carrier would cancel, substantially increase the costs of the insurance policy, or adversely change the policy terms because of the presence of a certain breed of animal or a certain animal this may impose an undue financial and administrative burden. You as a housing provider will need to verify such a claim with the insurance company directly and consider whether comparable insurance, without the restriction, is available on the market.

Examples of Assistance Animals:

- An animal that assists a person with a disability manage their symptoms related to depression, anxiety, stress or difficulties with social situations
- An animal that alerts others of the need for help or aids a person with a disability through a seizure, panic attack, or medical emergency
- An animal that provides assistance with mobility or health concerns



Additional Resources



- ◇ Department of Justice & HUD—Joint Statement on Reasonable Accommodations
- ◇ Department of Justice & HUD—Joint Statement on Reasonable Modifications
- ◇ HUD Fair Housing and Equal Opportunity Notice on Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-Funded Programs
- ◇ HUD Memo on Insurance Policy Restrictions as a Defense for Refusals to Make a Reasonable Accommodation
- ◇ Please visit www.fhcwm.org/publications to download these documents and the sample form on P. 6.

It is very important to take action after receiving a request.
Here are some commonly asked questions about addressing such requests.

What do I do if...?	
A resident made the request verbally and not in writing.	A manager needs to follow up regardless of how the request is made. If the resident needs assistance or alternative methods to communicate their needs to you, you will need to assist them in providing those means, such as large print materials, braille, electronic format, etc.
Someone made a request to maintenance staff but not to the front office staff or designated staff member.	Anyone who works for the property has the responsibility to ensure that such requests are referred to staff who can follow up with the person making the request. It is important that all staff are trained to report when a request is made (verbal or written) whether it be during the application process or during a routine maintenance repair.
A request has been made; can I ask for proof of their disability?	If the need or the disability is apparent, not always (see next question). Regardless, you can never ask for details about their diagnosis, health history, prognosis, etc.
What kind of information do I need to ask for when getting verification of a disability that is not obvious?	If the need or disability is not apparent, you can ask for reliable documentation that the resident has 1) a disability as <u>defined</u> by the Fair Housing Act AND 2) a disability-related need for the requested accommodation or modification (see P. 2).
Why can't I charge pet fees for assistance animals?	Assistance animals are essential tools for the person with a disability, which allow them to live independently and provide them the full enjoyment of their home. Assistance animals are not pets. Pet policies and pet fees <u>cannot</u> be applied to assistance animals.

TIP: It is best to document the entire process: receipt of the request, all follow-up communication, dates, and all steps taken to address the request. This prevents any miscommunication and allows for questions/requests to be addressed promptly.

Consider using this response form to assist you in the process of responding to a request.

Dear (*name of requester*) on (*date*) you requested the following reasonable accommodation and/or modification for yourself or a household member, or person associated with you: _____

In response, we have:

Approved your request (check all that apply).

- The accommodation or modification is granted effective immediately.
- We will provide the accommodation/modification by (*date*).
- Please contact me immediately to discuss and finalize details/paperwork regarding the approval of your request.
- To make the change you requested, we must have bids and then arrange installation or we must order certain equipment. We anticipate that the change will be made by (*date*), and we will notify you if there will be a delay. If you feel that this will take too long, please contact me immediately.

Not approved your request, because we need more information to properly consider the request (check all that apply):

- Please provide information to verify that you, your household member, or person associated with you has a disability, as defined by law. You do not have to provide specific information about the disability.
- Please provide more information or documentation (i.e. letter from medical professional, caseworker, service provider, peer support group, etc.) to explain the specific connection between the disability and the need for the requested accommodation or modification.
- Please provide a more detailed description of the proposed modification.
- Please provide assurance that the proposed modification will be done in a professional manner and that required building permits will be obtained.

Not approved your request, but instead offer the following alternative: _____

Because (fill in reason for offering alternative): _____

If you have questions or think that this alternative will not meet your needs, please contact me immediately.

Denied your request, because (check all that apply):

- You were unable to verify that you, your household member, or person associated with you has a disability, as defined by federal and/or state law.
- You were unable to demonstrate that the accommodation or modification is needed because of a disability.
- The accommodation and/or modification you requested is not reasonable because:
 - It will cost (fill in amount) \$_____ and/or _____ hours of staff time to make the change you requested and this is an undue burden on our operations.
 - It will fundamentally change the nature of our operations.

Please contact me immediately so that we can discuss whether there are alternative accommodations that would effectively meet your needs.

To make this decision, we spoke with the following people and/or took the following into consideration:

Additional comments:

If you disagree with this decision or have more information to provide to us, please feel free to contact me at the address or phone number listed below.

Name: _____ Title: _____

Address: _____

Phone Number: _____

Signature: _____ Date: _____

The Fair Housing Act and other laws seek to end discrimination in housing based on race, color, religion, national origin, sex, familial status, disability, marital status, and age.

If you have questions,
call the Fair Housing Center for help.



Fair Housing Center of West Michigan

20 Hall Street SE • Grand Rapids, MI 49507

Phone: (616) 451-2980 or 1-866-389-FAIR (3247)

Fax: (616) 451- 2657 • E-mail: contact-us@fhcwm.org

Website: www.fhcwm.org

Please note that this guide book is not intended to be used as legal advice.

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