

CITY OF HOLLY HILL, FLORIDA

BOARD OF PLANNING AND APPEALS

AGENDA • MAY 2, 2022

City Commission Chamber

BOPA Regular Meeting

6:00 PM

CITY HALL
1065 RIDGEWOOD AVENUE
HOLLY HILL, FL 32117

City Clerk's office: (386) 248-9441 - Fax: (386) 248-9448



City Commission Chamber
City Hall
1065 Ridgewood Avenue
Holly Hill, FL 32117

PLANNING & APPEALS BOARD MEMBERS

Chairman
Mike Myer

Board Member
Robin D. Hanger

Board Member
Tony Cassata

Board Member
Dennis Smith

Board Member
Loretta Arthur

CITY PLANNER
Brian Walker

Building & Zoning
Eleni Deligianis

1. CALL TO ORDER**2. INVOCATION****3. PLEDGE OF ALLEGIANCE****4. MINUTES****1. April 4, 2022 - Minutes**

(Requested by Eleni Deligianis, Board of Planning and Appeals)

5. AGENDA ITEM(S)**1. Request for a Reasonable Accommodation to the Fair Housing Act**

(Requested by Joseph Forte, City Manager)

6. ORDINANCES**1. Ordinance An Ordinance of the City of Holly Hill, Florida, Approving the Eighth Amendment to Marina Grande Residential Based Mixed Use Planned Unit Development (Mpud) Development Agreement to Add Permitted Uses; Providing for Conflicting Ordinances; Providing for Severability; and Providing an Effective Date.**

(Requested by Brian Walker, Board of Planning and Appeals)

7. OLD BUSINESS**8. BOARD / STAFF COMMUNICATIONS****9. ADJOURNMENT**

Website Address – www.hollyhillfl.org (City Clerk)

NOTICE – If any person decides to appeal any decision of the City Commission at this meeting, he/she will need a record of the proceedings and, for that purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The City does not prepare or provide such a record.



For special accommodations, please notify the City Clerk's Office at least 72 hours in advance. (386) 248-9441



Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained from the City Clerk's Office.

In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Commission proceedings should contact the City Clerk's Office no later than three (3) days prior to the proceedings.



**STAFF REPORT
CITY OF HOLLY HILL, FLORIDA**

4.1

**Board of Planning and Appeals
Agenda Item**

MEETING DATE: May 2, 2022
FROM: Eleni Deligianis
SUBJECT: April 4, 2022 - Minutes
NUMBER: (ID # 3720)
APPLICANT:
PLANNER:

DISCUSSION:

Minutes from April 4, 2022 BOPA Meeting

MOTION:

Approve as submitted by staff.

- BOPA April 2022 Minutes (PDF)



CITY OF HOLLY HILL, FLORIDA

BOARD OF PLANNING AND APPEALS

MINUTES • APRIL 4, 2022

City Commission Chamber

BOPA Regular Meeting

6:00 PM

CITY HALL
1065 RIDGEWOOD AVENUE
HOLLY HILL, FL 32117

City Clerk's office: (386) 248-9441 - Fax: (386) 248-9448

I. CALL TO ORDER

Attendee Name	Title	Status	Arrived
Mike Myer	Chairman	Present	
Robin D. Hanger	Board Member	Present	
Dennis Smith	Board Member	Excused	
Tony Cassata	Board Member	Absent	
Loretta Arthur	Board Member	Present	

II. INVOCATION

Invocation led by Mike Myer.

III. PLEDGE OF ALLEGIANCE

Pledge of Allegiance led by Loretta Arthur.

IV. BOPA MINUTES APPROVAL

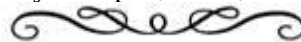
1. March 7, 2022 - Minutes

(Requested by Eleni Deligianis, Board of Planning and Appeals)

Motion to approve minutes for March 2022 BOPA Meeting by Loretta Arthur, seconded by Robin Hanger.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Loretta Arthur, Board Member
SECONDER:	Robin D. Hanger, Board Member
AYES:	Myer, Hanger, Arthur
ABSENT:	Cassata
EXCUSED:	Smith

Enacted and approved this 4th day of April, 2022, in Holly Hill



V. AGENDA ITEM

VI. ORDINANCES

Attachment: BOPA April 2022 Minutes (3720 : April 4, 2022 - Minutes)

1. An Ordinance of the City of Holly Hill, Florida, Amending Chapter 78 – General Provisions, Section 78-14 – Definitions, to Add Definitions, and Amend Chapter 114 – Zoning, Article Iii – Supplementary District Regulations, Division 4 – Buildings and Structures, to Add a New Section Titled Shipping Containers, Renumber Existing Sections as Needed, and Add Definitions to Section 114-746 – Specific Terms Defined, of the Land Development Regulations; and Providing for Conflicts, Severability, Applicability, and an Effective Date.

(Requested by Brian Walker, Board of Planning and Appeals)

Brian Walker, Community Development Director/City Planner summarized his staff report.

The Ordinance aims to regulate the use of shipping containers.

The proposed ordinance requires that such containers be placed behind the front plane of a principal structure and shall not be located within the principal rear and side yard setbacks of the I-1 (Wholesale-Light Industrial) and I-2 (Heavy Industrial) zoning districts, except that such containers that have a footprint of less than 250 square feet be allowed to be placed within 8 feet of the rear property line. If the container is at all visible from public rights-of-way, it must be placed in an eight-foot high, masonry block enclosure with a stucco finish painted to match the color of the principal structure. This enclosure is similar to what is required for a commercial dumpster which is essentially a metal container. Shipping containers must also sit on a concrete slab and be anchored to ensure level placement and prevent weeds from growing in and around them.

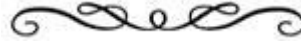
After discussion, the Board decided to expand the areas where containers are permitted to CC1 (including the CRA), under the conditions that it can't be seen. If it is seen, it would have to meet architectural requirements with a masonry enclosure. Staff recommends in CC1 but not in the CRA.

Removing the word "steel" and "vessel". Replace vessel with container.

Heidi Heller (460 Ridgewood Avenue) asked a question in regards to if there is a limit to how many containers can be on one parcel, Brian Walker answered that the number is limited by the impervious surface ratio.

Robin Hangar motioned to approve the proposal from staff subject to the deletion of the word steel, subject to the deletion of the word vessel and replace with container, and allowing it to be in CC1 - not visible from right of way, if visible it must be enclosed in a masonry structure, Loretta Arthur seconded.

RESULT:	RECOMMEND APPROVAL TO CITY COMMISSION [UNANIMOUS]
MOVER:	Robin D. Hanger, Board Member
SECONDER:	Loretta Arthur, Board Member
AYES:	Myer, Hanger, Arthur
ABSENT:	Cassata
EXCUSED:	Smith

**VII. OLD BUSINESS**

None.

VIII. BOARD/STAFF COMMUNICATIONS

Next meeting 5/2/2022.

IX. ADJOURNMENT

Meeting adjourned 6:53pm.



STAFF REPORT
CITY OF HOLLY HILL, FLORIDA

5.1

Board of Planning and Appeals
Agenda Item

MEETING DATE: May 2, 2022
FROM: Joseph Forte
SUBJECT: Request for a Reasonable Accommodation to the Fair Housing Act
NUMBER: (ID # 3718)
APPLICANT:
PLANNER:

DISCUSSION: On or about Wednesday, March 16, 2022, Dale Gamache met with me in my office to find out the details to request a reasonable accommodation under the Fair Housing Act. Mr. Gamache was making this request on behalf of his wife who is requesting the reasonable accommodation to have an Emotional Support Animal (ESA), a full size horse, reside on their residential property located at 1703 Anniston Ave. consisting of a total property boundary area that is 75'x125'.

With regard to using a full size horse, this would be considered a Unique Animal. According to the U.S. Department of Housing and Urban Development - assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act:

Unique Animals. If the individual is requesting to keep a unique type animal that is not commonly kept in households as described above, then the requestor has the **substantial burden of demonstrating** a disability-related therapeutic need for the specific animal or the specific type of animal.

FISCAL ANALYSIS:

Undetermined

STAFF RECOMMENDATION:

The requestor has not met the substantial burden of demonstrating a disability-related therapeutic need to have a full size horse reside on a single family residential property amongst other single family homes. Therefore, the staff recommends denial of the request for reasonable accommodations.

COMMISSION GOAL:

N/A

MOTION:

To be determined based on the discussion of the Board members.

- Letter to Dale Gamache (PDF)
- Response from Robin Gamache (PDF)
- City Code - Evaluation of request for accommodation pursuant to the Fair Housing Act (PDF)
- F.S.S. 760.27 Prohibited discrimination in housing provided to persons with a disability or disability-related need for an emotional support animal (PDF)
- huddojstatement (PDF)
- HUDAsstAnimalNC1-28-2020 (PDF)
- Reasonable Accommodations and Modifications HUD.gov U.S. Department of Housing and Urban Development (HUD) (PDF)

The City Code of Ordinances state:

Sec. 10-2. - Wild animals prohibited.

No person shall house, keep or maintain any **wild animals** within the city. Individuals who legally obtained licensing prior to the effective date of the ordinance from which this section derives are hereby grandfathered in.

(Code 1984, § 5-26; Ord. No. 2606, § 2, 2-27-01)

Wild animal shall mean any animal not ordinarily and customarily domesticated, including, but not limited to, skunks, raccoons, opossums, squirrels, foxes, wolves, alligators, crocodiles, exotic cats, bears, elephants, giraffes, zebras, monkeys, pigs, poultry, goats, cows, **horses**, and sheep.

(Code 1984, §§ 5-1, 5-66(c); Ord. No. 2606, § 2, 2-27-01; Ord. No. 3031, § 1, 10-13-20)

Based on the above city ordinances there is a prohibition against having a wild animal in the city. You recently brought a horse onto your residential property for the purpose of being an emotional support animal for your wife.

Typically, an emotional support animal is one that is comforting to a person and is in close proximity throughout the day and night to offer that comfort to an individual. Animals commonly kept in households consist of a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal. If the animal is one that is traditionally kept in the home for pleasure rather than for commercial purposes, then the reasonable accommodation should be granted because the requestor has provided information conforming that there is a disability related need for the animal. For purposes of the assessment, reptiles other than turtles, **barnyard animals**, monkeys kangaroos, and other non-domesticated animals are not considered common animals. Barnyard animal means animals including, but not limited to, **cows, horses, ducks, goats, chickens, donkeys, sheep, llamas, turkeys, pigs and alpacas.**

Unique animals according to the Fair Housing Act: If the individual is requesting to keep a unique type of animal that is not commonly kept in the household as describe above, then the requestor has the substantial burden of demonstrating a disability related therapeutic need for a specific animal or the specific type of animal. The individual is encouraged to submit documentation from a health care professional confirming the need for this animal, which includes information of the type set out in the Guidance on Documenting and Individual's Need for Assistance Animals in Housing.

The lack of such documentation in many cases may be reasonable grounds for denying a requested accommodation.

According to the U.S. Department of Housing and Urban Development, examples of a patient's need for a unique animal or unique circumstance:

- The animal is individually trained to do work or perform tasks that cannot be performed by a dog.
- Information from a health care professional confirms that:
 - Allergies prevent the person from using a dog, or
 - Without the animal, the symptoms or effects of the person's disability will be significantly increased.
 - The individual seeks a reasonable accommodation to a land use and zoning law, Homeowners Association (HOA) rule or condominium or co-op rule.
 - The individual seeks to keep the animal outdoors at a house with a fenced yard where the animal can be appropriately maintained.

Recently, you brought a full-size horse onto your residential property and built an accessory structure and fence without a permit. A complaint was received by the city and you were issued a code violation for three items. Building a structure without a permit, building a fence without a permit and maintaining a wild animal on residential property within the city limits.

You met with me on Wednesday, March 16, 2022 to discuss this situation and what may be permitted with regard to the horse on your residential property. We discussed and agreed that this situation does not meet the requirements of a "service animal" covered by the America Disability Act. We then discuss the matter as being an emotional support animal for your wife due to an emotional or mental condition recognized by Dr. Neal Nipper in a letter you had.

You inquired about making a request for reasonable accommodations to the city's land use and zoning code in accordance with the Fair Housing Act. The city does have a process for requesting an accommodation under Section 82-322 – Evaluation of Request for Accommodation pursuant to the Fair Housing Act. (Attached).

Because emotional support animals are medically valid, they are protected by emotional support animal Florida law. In addition to the Fair Housing Amendments Act of 1988, Florida recently passed laws in 2020 to prevent fraud regarding emotional support animals in housing.

In order to prepare, I am recommending that you prepare and have the information in this criterion available for the hearing. Although you have a letter from Dr. Nipper with regard to your wife's condition, a licensed mental health professional is required to evaluate and diagnose your wife's condition and confirm that a horse is the only emotional support animal that can treat her condition.

Therefore, although the state of Florida does not have an ESA registration, the city is requesting compliance with the basic Florida emotional support animal letter requirements for Emotion Support Animals which includes the following:

- A licensed mental health professional needs to determine that your wife has an emotional disability.

- Her mental disability is in the Diagnostic and Statistical Manual of Mental Disorders.
- The identified condition substantially limits her ability to participate in at least one major life activity.
- The professional has to determine that the emotional support animal (horse) would help treat the condition or ease her symptoms.
- She will need to get an emotional support animal letter which can be thought of as a prescription for an ESA.
- The letter must come from a licensed mental health professional.
- The letter must be on her therapist's official letterhead.
- The letter must include the therapist's license details, issue date, and state.

Since you intend to keep the horse on the property until such time as the BOPA and City Commission decide on your request for Reasonable Accommodations, I am providing thirty (30) days to assemble the information and provide it to me no later than Monday, April 25, 2022. If the information is provided, a hearing with the BOPA will be scheduled for May 2, 2022 where you will be asked to provide the supporting material and request the Reasonable Accommodation. Following the BOPA's decision, the City Commission will be presented the request on May 10, 2022.

Failure to have the information will result in having to remove the animal from the property immediately. This matter will be scheduled for the Special Master but will be withdrawn if your hearing with the BOPA remains as scheduled.

Please keep in mind that even if the requested information is provided, it does not mean that the City staff will support the request or that the City Commission will ultimately approve the requested accommodation.

Joseph Forte



Open



Get Started With Free ESA Screening Test

Emotional Support Animal Laws In Florida

According to Florida's housing laws, tenants are prohibited from being discriminated against^[2] for needing an emotional support animal. Even in buildings with a prohibition against pets, tenants can live with their companion animals.

Emotional support animal Florida law establishes that an ESA is an animal that is not a pet. An ESA does not require training to work, perform tasks, provide assistance, or provide therapeutic emotional support. Unlike a trained service animal^[3], which is also protected under law, an ESA is a unique medically prescribed animal.

People prescribed an ESA may have an unconventional choice, opting for a ferret, pig, horse, monkey rather than a dog or cat. The choice of ESA is up to the client in need of a companion. However, there may be challenges if an ESA poses a health or safety hazard to others if placed in a building.

So, can a landlord deny an emotional support animal Florida? Although established housing laws protect tenants' rights to live with their ESA, a landlord may require further documentation to verify claims. Before the new Florida law was passed in 2020 regarding ESAs, there were concerns about fraudulent activity^[4]. In the past, clients have paid for emotional support animal registration online with certifications, IDs, and other materials. There is no need for a tenant to pay for an emotional support animal registration for housing, travel, or other accommodations.

The only proper way to confirm and legitimize an emotional support animal Florida registration is to get a letter from a licensed mental healthcare professional, such as a licensed counselor, psychologist, psychiatrist, or nurse. The medical professional writing the letter for the ESA should prove a few things to be in alliance with Florida law.

About Emotional Support Animal Florida Housing

If a prospective tenant to a property is concerned about emotional support animals in Florida condos, the new law fully protects their rights. If you are wondering, "Can a landlord deny an emotional support animal Florida?" or "What about emotional support animals in Florida condos?" review current emotional support animal Florida housing laws.

New Laws For ESA And Housing

Due to the prevalence of people passing off questionable animals that could be otherwise illegal, used for entertainment, as pets, or other uses than an ESA, Florida amended ESA laws. Law SB 1084 was passed July 1, 2020, and went into full effect. Anyone who is disabled or has disability-related needs that require an ESA is entitled to accommodations for their animal and housing. An ESA cannot be considered a pet to exclude a tenant or charging fees. However, if an ESA damages property, a tenant can be held liable.

If a tenant's **disability** is not apparent, they may be required to give supporting information to confirm **their disability and legitimate need^[5]** for an ESA to live with them. Documentation from a government agency, ESA letters, **information from a health care provider, and other forms of evidence are permissible.** As an emotional support animal Florida is a therapeutic and medically prescribed animal, the law provides protections for emotional support animal Florida housing applicants.

A potential tenant cannot be required to provide certain types of information related to their disability, including medical records. A prospective tenant cannot be forced to fill out a specific form and have their request for their ESA's accommodations denied for not following particular methods of obtaining information or supplying the requested information.

How To Write An Emotional Support Animal Letter?

It is helpful to have a written letter to prove your right to an emotional support animal if there is a challenge to the validity of one's disability, ESA housing accommodation, or other issues. A primary care physician or licensed therapist who has treated the client at least once in-state should provide a written statement. There is usually not enough supportive evidence provided by an online registry, purchased online letter, or a self-written letter for an ESA.

A letter for an emotional support animal should include the following information.

- The ESA's date of issue, how long the ESA has been under the client's care, and expiration date if applicable.
- The name of the patient prescribed an ESA.
- The name of the licensed physician or therapist caring for the patient, their disability, and medical professional contact information.

An ESA letter should be written by the licensed mental healthcare professional or physician who prescribed the ESA and provides client treatment. An ESA letter Florida is helpful for tenants seeking housing, even in properties with a “no pet” designation. A landlord cannot charge a tenant a pet fee for an ESA but can ask for charges if the ESA causes property damage.

Which Animals Are Considered ESA In Florida?

There is a clear difference between a trained service animal such as a dog or horse versus a companion emotional support animal. In the state of Florida, ESA animals are at the client's discretion. However, if substantial evidence suggests that a client's ESA is a danger or presents a problem for others, it may be denied.

Common ESAs include dogs, cats, snakes, rabbits, pigs, hedgehogs, horses, and ferrets. Just because a particular animal breed may have a questionable reputation or appears dangerous, there must be clear evidence to deny the request for accommodations for an ESA.

Frequently Asked Questions

Who Qualifies For An Emotional Support Animal?

Most persons seeking treatment for their mental health or emotional disability could [benefit](#)⁽⁷⁾ from being prescribed an ESA. Common disabilities that qualify for an ESA include the following: Anxiety, Depression, Chronic Stress, Post-traumatic stress disorder, ADHD, Certain learning disabilities

Coronavirus (COVID-19) UpdatesTelephone Problems Affecting Customer Service

Social Security

Apply Online for Disability Benefits

Social Security offers an online disability application you can complete at your convenience. Apply from the comfort of your home or any location at a time most convenient for you. You do not need to drive to your local Social Security office or wait for an appointment with a Social Security representative.

Who can apply for adult disability benefits online?

You can use the online application to apply for disability benefits if you:

- Are age 18 or older;
- Are not currently receiving benefits on your own Social Security record;
- Are unable to work because of a medical condition that is expected to last at least 12 months or result in death: and
- Have not been denied disability benefits in the last 60 days. If your application was recently denied for medical reasons, the Internet Appeal is a starting point to request a review of the medical determination we made.

How do I apply for benefits?**Publications**

- [Apply Online for Disability Benefits](#)
- [Disability Benefits](#)
- [Fact Sheet – Exclusion of Certain Medical Sources' Evidence](#)

Related Information

- [Disability Planner](#)
- [Information for Representatives](#)
- [What You Need to Know About The Online Disability Application](#)
- [Helping Someone Apply Online](#)
- [Information on Excluding Certain Medical Sources' Evidence](#)



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1 February 2022

Neil Nipper, MD
461 S. Nova Road
Ormond Beach FL 32174

To Whom It May Concern,

I have served in the capacity of the primary care physician for Mrs. Robin Gamache (9/18/61) for the past few months since her diagnosis of Covid-19 Pneumonia in August 2021. She recently came to my office to request my support to designate her horse as an equine companion pet (ECP) and obtain a waiver of city ordinance which would allow her to relocate this emotional support animal at her home of residence in Holly Hill, FL.

Mrs. Gamache suffers from emotional anxiousness, a condition that has worsened after her lengthy struggle with her Covid-19 infection in August 2021. She feels uncomfortable in crowded areas and is challenged by directional navigation to visit her ECP as often as she would prefer. Her equine serves as helpful therapy for this behavioral health condition. Thus, from a medical standpoint, she meets all criteria for this designation of her ECP.

She has shared plans with me to modify her backyard to allow the safe-keeping of her ECP. She believes that relocating her ECP to her home of residence would be mutually beneficial. I have encouraged her to discuss her plans with neighbors to avoid unnecessary conflict should this waiver be granted.

Please feel free to contact me concerning this medical opinion at (386) 676-4437 or at nnipper@fhcp.com.

Sincerely,

Neil B. Nipper, MD
ABFM, EHCC/Case Management Physician
Florida Health Care Plans

Attachment: Response from Robin Gamache (3718 : Request for a Reasonable Accommodation to the Fair Housing Act)

Sec. 82-322. Evaluation of request for accommodation pursuant to the Fair Housing Act.

- (a) A request may be made by the property owner or authorized representative for a request for an accommodation from the city's rules, policy, practices or service to allow a handicapped person or persons to have equal opportunity to use and enjoy a dwelling. The request shall be on an approved form issued by the city and must contain the following:
 - (1) Proof of ownership of the property which the request is being made or authorization from the property owner.
 - (2) Specifically identify the rules, policies, practices or services from which relief is being requested.
 - (3) Identify the nature of the disability of the occupants of the dwelling.
 - (4) Outline the minimum relief that is necessary to allow a handicapped person to use and enjoy the dwelling.
 - (5) Described in detail how the requested relief is necessary to allow a person with the above identified disability to be able to reasonably use and enjoy the dwelling.
 - (6) Access must be granted to the necessary city employees to inspect the dwelling.
- (b) The city shall evaluate all necessary criteria, facts, rules, laws, etc., to make a determination as to whether the requested accommodation is reasonable, including, but not limited to:
 - (1) The policies and objectives of the city's comprehensive plan including the future land use designation of the property in question.
 - (2) The permitted uses, conditional uses and special exceptions allowed for the zoning designation of the property in question.
 - (3) The surrounding neighborhood, including zoning and future land use designations of the surrounding area.
 - (4) The capacity of existing city utilities and infrastructures to accommodate the requested use.
 - (5) Existing traffic patterns and traffic problems in the area that currently exists or may become a problem if the requested relief were granted.
 - (6) Potential for noise, dust or other impacts to the neighborhood.
 - (7) Ability of the existing dwelling to accommodate the requested variation, including bedrooms, bathrooms, outside parking and existing compliance with current building codes to determine the existence of any life and safety issues.
 - (8) The existence of any current code violations.
 - (9) The over-concentration of group homes in close proximity to the applicant.
- (c) The board of planning and appeals shall review the application and all relevant facts and laws and make a recommendation to the city commission to approve, deny or approve with conditions. The city commission shall make the final determination.

(Ord. No. 2870, § 1, 6-8-10; Ord. No. 2987, § 1, 3-28-17)

Title XLIV
CIVIL
RIGHTS

Chapter 760
DISCRIMINATION IN THE TREATMENT OF PERSONS;
MINORITY REPRESENTATION

View Entire
Chapter

760.27 Prohibited discrimination in housing provided to persons with a disability or disability-related need for an emotional support animal. —

(1) DEFINITIONS.—As used in this section, the term:

(a) “Emotional support animal” means an animal that does not require training to do work, perform tasks, provide assistance, or provide therapeutic emotional support by virtue of its presence which alleviates one or more identified symptoms or effects of a person’s disability.

(b) “Housing provider” means any person or entity engaging in conduct covered by the federal Fair Housing Act or s. 504 of the Rehabilitation Act of 1973, including the owner or lessor of a dwelling.

(2) REASONABLE ACCOMMODATION REQUESTS.—To the extent required by federal law, rule, or regulation, it is unlawful to discriminate in the provision of housing to a person with a disability or disability-related need for, and who has or at any time obtains, an emotional support animal. A person with a disability or a disability-related need must, upon the person’s request and approval by a housing provider, be allowed to keep such animal in his or her dwelling as a reasonable accommodation in housing, and such person may not be required to pay extra compensation for such animal. Unless otherwise prohibited by federal law, rule, or regulation, a housing provider may:

(a) Deny a reasonable accommodation request for an emotional support animal if such animal poses a direct threat to the safety or health of others or poses a direct threat of physical damage to the property of others, which threat cannot be reduced or eliminated by another reasonable accommodation.

(b) If a person’s disability is not readily apparent, request reliable information that reasonably supports that the person has a disability. Supporting information may include:

1. A determination of disability from any federal, state, or local government agency.
2. Receipt of disability benefits or services from any federal, state, or local government agency.
3. Proof of eligibility for housing assistance or a housing voucher received because of a disability.
4. Information from a health care practitioner, as defined in s. [456.001](#); a telehealth provider, as defined in s. [456.47](#); or any other similarly licensed or certified practitioner or provider in good standing with his or her profession’s regulatory body in another state but only if such out-of-state practitioner has provided in-person care or services to the tenant on at least one occasion. Such information is reliable if the practitioner or provider has personal knowledge of the person’s

disability and is acting within the scope of his or her practice to provide the supporting information.

5. Information from any other source that the housing provider reasonably determines to be reliable in accordance with the federal Fair Housing Act and s. 504 of the Rehabilitation Act of 1973.

(c) If a person's disability-related need for an emotional support animal is not readily apparent, request reliable information that reasonably supports the person's need for the particular emotional support animal being requested. Supporting information may include:

1. Information identifying the particular assistance or therapeutic emotional support provided by the specific animal from a health care practitioner, as defined in s. 456.001; a telehealth provider, as defined in s. 456.47; or any other similarly licensed or certified practitioner or provider in good standing with his or her profession's regulatory body in another state. Such information is reliable if the practitioner or provider has personal knowledge of the person's disability and is acting within the scope of his or her practice to provide the supporting information.

2. Information from any other source that the housing provider reasonably determines to be reliable in accordance with the federal Fair Housing Act and s. 504 of the Rehabilitation Act of 1973.

(d) If a person requests to keep more than one emotional support animal, request information regarding the specific need for each animal.

(e) Require proof of compliance with state and local requirements for licensing and vaccinating each emotional support animal.

(3) REQUEST LIMITATIONS.—

(a) Notwithstanding the authority to request information under subsection (2), a housing provider may not request information that discloses the diagnosis or severity of a person's disability or any medical records relating to the disability. However, a person may disclose such information or medical records to the housing provider at his or her discretion.

(b) A housing provider may develop and make available to persons a routine method for receiving and processing reasonable accommodation requests for emotional support animals; however, a housing provider may not require the use of a specific form or notarized statement, or deny a request solely because a person did not follow the housing provider's routine method.

(c) An emotional support animal registration of any kind, including, but not limited to, an identification card, patch, certificate, or similar registration obtained from the Internet is not, by itself, sufficient information to reliably establish that a person has a disability or a disability-related need for an emotional support animal.

(4) **LIABILITY.**—A person with a disability or a disability-related need is liable for any damage done to the premises or to another person on the premises by his or her emotional support animal.

(5) **APPLICABILITY.**—This section does not apply to a service animal as defined in s. 413.08.

History.—s. 1, ch. 2020-76.



U.S. DEPARTMENT OF JUSTICE
CIVIL RIGHTS DIVISION



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY

Washington, D.C.
May 17, 2004

**JOINT STATEMENT OF
THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
AND THE DEPARTMENT OF JUSTICE**

***REASONABLE ACCOMMODATIONS UNDER THE
FAIR HOUSING ACT***

Introduction

The Department of Justice ("DOJ") and the Department of Housing and Urban Development ("HUD") are jointly responsible for enforcing the federal Fair Housing Act¹ (the "Act"), which prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, familial status, and disability.² One type of disability discrimination prohibited by the Act is the refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling.³ HUD and DOJ frequently respond to complaints alleging that housing providers have violated the Act by refusing reasonable accommodations to persons with disabilities. This Statement provides technical assistance regarding the rights and obligations of persons with disabilities and housing providers under the Act relating to

¹ The Fair Housing Act is codified at 42 U.S.C. §§ 3601 - 3619.

² The Act uses the term "handicap" instead of the term "disability." Both terms have the same legal meaning. See *Bragdon v. Abbott*, 524 U.S. 624, 631 (1998) (noting that definition of "disability" in the Americans with Disabilities Act is drawn almost verbatim "from the definition of 'handicap' contained in the Fair Housing Amendments Act of 1988"). This document uses the term "disability," which is more generally accepted.

³ 42 U.S.C. § 3604(f)(3)(B).

reasonable accommodations.⁴

Questions and Answers

1. What types of discrimination against persons with disabilities does the Act prohibit?

The Act prohibits housing providers from discriminating against applicants or residents because of their disability or the disability of anyone associated with them⁵ and from treating persons with disabilities less favorably than others because of their disability. The Act also makes it unlawful for any person to refuse “to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford ... person(s) [with disabilities] equal opportunity to use and enjoy a dwelling.”⁶ The Act also prohibits housing providers from refusing residency to persons with disabilities, or placing conditions on their residency, because those persons may require reasonable accommodations. In addition, in certain circumstances, the Act requires that housing providers allow residents to

⁴ Housing providers that receive federal financial assistance are also subject to the requirements of Section 504 of the Rehabilitation Act of 1973. 29 U.S.C. § 794. Section 504, and its implementing regulations at 24 C.F.R. Part 8, prohibit discrimination based on disability and require recipients of federal financial assistance to provide reasonable accommodations to applicants and residents with disabilities. Although Section 504 imposes greater obligations than the Fair Housing Act, (e.g., providing and paying for reasonable accommodations that involve structural modifications to units or public and common areas), the principles discussed in this Statement regarding reasonable accommodation under the Fair Housing Act generally apply to requests for reasonable accommodations to rules, policies, practices, and services under Section 504. See U.S. Department of Housing and Urban Development, Office of Public and Indian Housing, Notice PIH 2002-01(HA) (www.hud.gov/offices/fheo/disabilities/PIH02-01.pdf) and “Section 504: Frequently Asked Questions,” (www.hud.gov/offices/fheo/disabilities/sect504faq.cfm#anchor272118).

⁵ The Fair Housing Act’s protection against disability discrimination covers not only home seekers with disabilities but also buyers and renters without disabilities who live or are associated with individuals with disabilities 42 U.S.C. § 3604(f)(1)(B), 42 U.S.C. § 3604(f)(1)(C), 42 U.S.C. § 3604(f)(2)(B), 42 U.S.C. § (f)(2)(C). See also H.R. Rep. 100-711 – 24 (reprinted in 1988 U.S.C.A.N. 2173, 2184-85) (“The Committee intends these provisions to prohibit not only discrimination against the primary purchaser or named lessee, but also to prohibit denials of housing opportunities to applicants because they have children, parents, friends, spouses, roommates, patients, subtenants or other associates who have disabilities.”). Accord: Preamble to Proposed HUD Rules Implementing the Fair Housing Act, 53 Fed. Reg. 45001 (Nov. 7, 1988) (citing House Report).

⁶ 42 U.S.C. § 3604(f)(3)(B). HUD regulations pertaining to reasonable accommodations may be found at 24 C.F.R. § 100.204.

make reasonable structural modifications to units and public/common areas in a dwelling when those modifications may be necessary for a person with a disability to have full enjoyment of a dwelling.⁷ With certain limited exceptions (*see* response to question 2 below), the Act applies to privately and publicly owned housing, including housing subsidized by the federal government or rented through the use of Section 8 voucher assistance.

2. Who must comply with the Fair Housing Act's reasonable accommodation requirements?

Any person or entity engaging in prohibited conduct – *i.e.*, refusing to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling – may be held liable unless they fall within an exception to the Act's coverage. Courts have applied the Act to individuals, corporations, associations and others involved in the provision of housing and residential lending, including property owners, housing managers, homeowners and condominium associations, lenders, real estate agents, and brokerage services. Courts have also applied the Act to state and local governments, most often in the context of exclusionary zoning or other land-use decisions. *See e.g.*, City of Edmonds v. Oxford House, Inc., 514 U.S. 725, 729 (1995); Project Life v. Glendening, 139 F. Supp. 703, 710 (D. Md. 2001), aff'd 2002 WL 2012545 (4th Cir. 2002). Under specific exceptions to the Fair Housing Act, the reasonable accommodation requirements of the Act do not apply to a private individual owner who sells his own home so long as he (1) does not own more than three single-family homes; (2) does not use a real estate agent and does not employ any discriminatory advertising or notices; (3) has not engaged in a similar sale of a home within a 24-month period; and (4) is not in the business of selling or renting dwellings. The reasonable accommodation requirements of the Fair Housing Act also do not apply to owner-occupied buildings that have four or fewer dwelling units.

3. Who qualifies as a person with a disability under the Act?

The 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.

The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

⁷ This Statement does not address the principles relating to reasonable modifications. For further information see the HUD regulations at 24 C.F.R. § 100.203. This statement also does not address the additional requirements imposed on recipients of Federal financial assistance pursuant to Section 504, as explained in the Introduction.

The term "substantially limits" suggests that the limitation is "significant" or "to a large degree."

The term "major life activity" means those activities that are of central importance to daily life, such as seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, and speaking.⁸ This list of major life activities is not exhaustive. *See e.g., Bragdon v. Abbott*, 524 U.S. 624, 691-92 (1998)(holding that for certain individuals reproduction is a major life activity).

4. Does the Act protect juvenile offenders, sex offenders, persons who illegally use controlled substances, and persons with disabilities who pose a significant danger to others?

No, juvenile offenders and sex offenders, by virtue of that status, are not persons with disabilities protected by the Act. Similarly, while the Act does protect persons who are recovering from substance abuse, it does not protect persons who are currently engaging in the current illegal use of controlled substances.⁹ Additionally, the Act does not protect an individual with a disability whose tenancy would constitute a "direct threat" to the health or safety of other individuals or result in substantial physical damage to the property of others unless the threat can be eliminated or significantly reduced by reasonable accommodation.

5. How can a housing provider determine if an individual poses a direct threat?

The Act does not allow for exclusion of individuals based upon fear, speculation, or stereotype about a particular disability or persons with disabilities in general. A determination that an individual poses a direct threat must rely on an individualized assessment that is based on reliable objective evidence (*e.g.*, current conduct, or a recent history of overt acts). The assessment must consider: (1) the nature, duration, and severity of the risk of injury; (2) the probability that injury will actually occur; and (3) whether there are any reasonable accommodations that will eliminate the direct threat. Consequently, in evaluating a recent history of overt acts, a provider must take into account whether the individual has received intervening treatment or medication that has eliminated the direct threat (*i.e.*, a significant risk of substantial harm). In such a situation, the provider may request that the individual document

⁸ The Supreme Court has questioned but has not yet ruled on whether "working" is to be considered a major life activity. *See Toyota Motor Mfg. Kentucky, Inc. v. Williams*, 122 S. Ct. 681, 692, 693 (2002). If it is a major activity, the Court has noted that a claimant would be required to show an inability to work in a "broad range of jobs" rather than a specific job. *See Sutton v. United Airlines, Inc.*, 527 U.S. 470, 492 (1999).

⁹ *See, e.g., United States v. Southern Management Corp.*, 955 F.2d 914, 919 (4th Cir. 1992) (discussing exclusion in 42 U.S.C. § 3602(h) for "current, illegal use of or addiction to a controlled substance").

how the circumstances have changed so that he no longer poses a direct threat. A provider may also obtain satisfactory assurances that the individual will not pose a direct threat during the tenancy. The housing provider must have reliable, objective evidence that a person with a disability poses a direct threat before excluding him from housing on that basis.

Example 1: A housing provider requires all persons applying to rent an apartment to complete an application that includes information on the applicant's current place of residence. On her application to rent an apartment, a woman notes that she currently resides in Cambridge House. The manager of the apartment complex knows that Cambridge House is a group home for women receiving treatment for alcoholism. Based solely on that information and his personal belief that alcoholics are likely to cause disturbances and damage property, the manager rejects the applicant. The rejection is unlawful because it is based on a generalized stereotype related to a disability rather than an individualized assessment of any threat to other persons or the property of others based on reliable, objective evidence about the applicant's recent past conduct. The housing provider may not treat this applicant differently than other applicants based on his subjective perceptions of the potential problems posed by her alcoholism by requiring additional documents, imposing different lease terms, or requiring a higher security deposit. However, the manager could have checked this applicant's references to the same extent and in the same manner as he would have checked any other applicant's references. If such a reference check revealed objective evidence showing that this applicant had posed a direct threat to persons or property in the recent past and the direct threat had not been eliminated, the manager could then have rejected the applicant based on direct threat.

Example 2: James X, a tenant at the Shady Oaks apartment complex, is arrested for threatening his neighbor while brandishing a baseball bat. The Shady Oaks' lease agreement contains a term prohibiting tenants from threatening violence against other residents. Shady Oaks' rental manager investigates the incident and learns that James X threatened the other resident with physical violence and had to be physically restrained by other neighbors to keep him from acting on his threat. Following Shady Oaks' standard practice of strictly enforcing its "no threats" policy, the Shady Oaks rental manager issues James X a 30-day notice to quit, which is the first step in the eviction process. James X's attorney contacts Shady Oaks' rental manager and explains that James X has a psychiatric disability that causes him to be physically violent when he stops taking his prescribed medication. Suggesting that his client will not pose a direct threat to others if proper safeguards are taken, the attorney requests that the rental manager grant James X an exception to the "no threats" policy as a reasonable accommodation based on James X's disability. The Shady Oaks rental manager need only grant the reasonable accommodation if James X's attorney can provide satisfactory assurance that James X will receive appropriate counseling and

periodic medication monitoring so that he will no longer pose a direct threat during his tenancy. After consulting with James X, the attorney responds that James X is unwilling to receive counseling or submit to any type of periodic monitoring to ensure that he takes his prescribed medication. The rental manager may go forward with the eviction proceeding, since James X continues to pose a direct threat to the health or safety of other residents.

6. What is a "reasonable accommodation" for purposes of the Act?

A "reasonable accommodation" is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since rules, policies, practices, and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling. The Act makes it unlawful to refuse to make reasonable accommodations to rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling.

To show that a requested accommodation may be necessary, there must be an identifiable relationship, or nexus, between the requested accommodation and the individual's disability.

Example 1: A housing provider has a policy of providing unassigned parking spaces to residents. A resident with a mobility impairment, who is substantially limited in her ability to walk, requests an assigned accessible parking space close to the entrance to her unit as a reasonable accommodation. There are available parking spaces near the entrance to her unit that are accessible, but those spaces are available to all residents on a first come, first served basis. The provider must make an exception to its policy of not providing assigned parking spaces to accommodate this resident.

Example 2: A housing provider has a policy of requiring tenants to come to the rental office in person to pay their rent. A tenant has a mental disability that makes her afraid to leave her unit. Because of her disability, she requests that she be permitted to have a friend mail her rent payment to the rental office as a reasonable accommodation. The provider must make an exception to its payment policy to accommodate this tenant.

Example 3: A housing provider has a "no pets" policy. A tenant who is deaf requests that the provider allow him to keep a dog in his unit as a reasonable accommodation. The tenant explains that the dog is an assistance animal that will alert him to several sounds, including knocks at the door, sounding of the smoke detector, the telephone ringing, and cars coming into the driveway. The housing

provider must make an exception to its “no pets” policy to accommodate this tenant.

7. Are there any instances when a provider can deny a request for a reasonable accommodation without violating the Act?

Yes. A housing provider can deny a request for a reasonable accommodation if the request was not made by or on behalf of a person with a disability or if there is no disability-related need for the accommodation. In addition, a request for a reasonable accommodation may be denied if providing the accommodation is not reasonable – *i.e.*, if it would impose an undue financial and administrative burden on the housing provider or it would fundamentally alter the nature of the provider's operations. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the cost of the requested accommodation, the financial resources of the provider, the benefits that the accommodation would provide to the requester, and the availability of alternative accommodations that would effectively meet the requester's disability-related needs.

When a housing provider refuses a requested accommodation because it is not reasonable, the provider should discuss with the requester whether there is an alternative accommodation that would effectively address the requester's disability-related needs without a fundamental alteration to the provider's operations and without imposing an undue financial and administrative burden. If an alternative accommodation would effectively meet the requester's disability-related needs and is reasonable, the provider must grant it. An interactive process in which the housing provider and the requester discuss the requester's disability-related need for the requested accommodation and possible alternative accommodations is helpful to all concerned because it often results in an effective accommodation for the requester that does not pose an undue financial and administrative burden for the provider.

Example: As a result of a disability, a tenant is physically unable to open the dumpster placed in the parking lot by his housing provider for trash collection. The tenant requests that the housing provider send a maintenance staff person to his apartment on a daily basis to collect his trash and take it to the dumpster. Because the housing development is a small operation with limited financial resources and the maintenance staff are on site only twice per week, it may be an undue financial and administrative burden for the housing provider to grant the requested daily trash pick-up service. Accordingly, the requested accommodation may not be reasonable. If the housing provider denies the requested accommodation as unreasonable, the housing provider should discuss with the tenant whether reasonable accommodations could be provided to meet the tenant's disability-related needs – for instance, placing an open trash collection can in a location that is readily accessible to the tenant so the tenant can dispose of his own trash and the provider's maintenance staff can then transfer the trash to the dumpster when they are on site. Such an accommodation would not involve a

fundamental alteration of the provider's operations and would involve little financial and administrative burden for the provider while accommodating the tenant's disability-related needs.

There may be instances where a provider believes that, while the accommodation requested by an individual is reasonable, there is an alternative accommodation that would be equally effective in meeting the individual's disability-related needs. In such a circumstance, the provider should discuss with the individual if she is willing to accept the alternative accommodation. However, providers should be aware that persons with disabilities typically have the most accurate knowledge about the functional limitations posed by their disability, and an individual is not obligated to accept an alternative accommodation suggested by the provider if she believes it will not meet her needs and her preferred accommodation is reasonable.

8. What is a “fundamental alteration”?

A "fundamental alteration" is a modification that alters the essential nature of a provider's operations.

Example: A tenant has a severe mobility impairment that substantially limits his ability to walk. He asks his housing provider to transport him to the grocery store and assist him with his grocery shopping as a reasonable accommodation to his disability. The provider does not provide any transportation or shopping services for its tenants, so granting this request would require a fundamental alteration in the nature of the provider's operations. The request can be denied, but the provider should discuss with the requester whether there is any alternative accommodation that would effectively meet the requester's disability-related needs without fundamentally altering the nature of its operations, such as reducing the tenant's need to walk long distances by altering its parking policy to allow a volunteer from a local community service organization to park her car close to the tenant's unit so she can transport the tenant to the grocery store and assist him with his shopping.

9. What happens if providing a requested accommodation involves some costs on the part of the housing provider?

Courts have ruled that the Act may require a housing provider to grant a reasonable accommodation that involves costs, so long as the reasonable accommodation does not pose an undue financial and administrative burden and the requested accommodation does not constitute a fundamental alteration of the provider's operations. The financial resources of the provider, the cost of the reasonable accommodation, the benefits to the requester of the requested accommodation, and the availability of other, less expensive alternative accommodations that would effectively meet the applicant or resident's disability-related needs must be considered in determining whether a requested accommodation poses an undue financial and administrative

burden.

10. What happens if no agreement can be reached through the interactive process?

A failure to reach an agreement on an accommodation request is in effect a decision by the provider not to grant the requested accommodation. If the individual who was denied an accommodation files a Fair Housing Act complaint to challenge that decision, then the agency or court receiving the complaint will review the evidence in light of applicable law and decide if the housing provider violated that law. For more information about the complaint process, see question 19 below.

11. May a housing provider charge an extra fee or require an additional deposit from applicants or residents with disabilities as a condition of granting a reasonable accommodation?

No. Housing providers may not require persons with disabilities to pay extra fees or deposits as a condition of receiving a reasonable accommodation.

Example 1: A man who is substantially limited in his ability to walk uses a motorized scooter for mobility purposes. He applies to live in an assisted living facility that has a policy prohibiting the use of motorized vehicles in buildings and elsewhere on the premises. It would be a reasonable accommodation for the facility to make an exception to this policy to permit the man to use his motorized scooter on the premises for mobility purposes. Since allowing the man to use his scooter in the buildings and elsewhere on the premises is a reasonable accommodation, the facility may not condition his use of the scooter on payment of a fee or deposit or on a requirement that he obtain liability insurance relating to the use of the scooter. However, since the Fair Housing Act does not protect any person with a disability who poses a direct threat to the person or property of others, the man must operate his motorized scooter in a responsible manner that does not pose a significant risk to the safety of other persons and does not cause damage to other persons' property. If the individual's use of the scooter causes damage to his unit or the common areas, the housing provider may charge him for the cost of repairing the damage (or deduct it from the standard security deposit imposed on all tenants), if it is the provider's practice to assess tenants for any damage they cause to the premises.

Example 2: Because of his disability, an applicant with a hearing impairment needs to keep an assistance animal in his unit as a reasonable accommodation. The housing provider may not require the applicant to pay a fee or a security deposit as a condition of allowing the applicant to keep the assistance animal. However, if a tenant's assistance animal causes damage to the applicant's unit or the common areas of the dwelling, the housing provider may charge the tenant for

the cost of repairing the damage (or deduct it from the standard security deposit imposed on all tenants), if it is the provider's practice to assess tenants for any damage they cause to the premises.

12. When and how should an individual request an accommodation?

Under the Act, a resident or an applicant for housing makes a reasonable accommodation request whenever she makes clear to the housing provider that she is requesting an exception, change, or adjustment to a rule, policy, practice, or service because of her disability. She should explain what type of accommodation she is requesting and, if the need for the accommodation is not readily apparent or not known to the provider, explain the relationship between the requested accommodation and her disability.

An applicant or resident is not entitled to receive a reasonable accommodation unless she requests one. However, the Fair Housing Act does not require that a request be made in a particular manner or at a particular time. A person with a disability need not personally make the reasonable accommodation request; the request can be made by a family member or someone else who is acting on her behalf. An individual making a reasonable accommodation request does not need to mention the Act or use the words "reasonable accommodation." However, the requester must make the request in a manner that a reasonable person would understand to be a request for an exception, change, or adjustment to a rule, policy, practice, or service because of a disability.

Although a reasonable accommodation request can be made orally or in writing, 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. To facilitate the processing and consideration of the request, residents or prospective residents may wish to check with a housing provider in advance to determine if the provider has a preference regarding the manner in which the request is made. However, housing providers must give appropriate consideration to reasonable accommodation requests even if the requester makes the request orally or does not use the provider's preferred forms or procedures for making such requests.

Example: A tenant in a large apartment building makes an oral request that she be assigned a mailbox in a location that she can easily access because of a physical disability that limits her ability to reach and bend. The provider would prefer that the tenant make the accommodation request on a pre-printed form, but the tenant fails to complete the form. The provider must consider the reasonable accommodation request even though the tenant would not use the provider's designated form.

13. Must a housing provider adopt formal procedures for processing requests for a reasonable accommodation?

No. The Act does not require that a housing provider adopt any formal procedures for reasonable accommodation requests. However, having formal procedures may aid individuals with disabilities in making requests for reasonable accommodations and may aid housing providers in assessing those requests so that there are no misunderstandings as to the nature of the request, and, in the event of later disputes, provide records to show that the requests received proper consideration.

A provider may not refuse a request, however, because the individual making the request did not follow any formal procedures that the provider has adopted. If a provider adopts formal procedures for processing reasonable accommodation requests, the provider should ensure that the procedures, including any forms used, do not seek information that is not necessary to evaluate if a reasonable accommodation may be needed to afford a person with a disability equal opportunity to use and enjoy a dwelling. See Questions 16 - 18, which discuss the disability-related information that a provider may and may not request for the purposes of evaluating a reasonable accommodation request.

14. Is a housing provider obligated to provide a reasonable accommodation to a resident or applicant if an accommodation has not been requested?

No. A housing provider is only obligated to provide a reasonable accommodation to a resident or applicant if a request for the accommodation has been made. A provider has notice that a reasonable accommodation request has been made if a person, her family member, or someone acting on her behalf requests a change, exception, or adjustment to a rule, policy, practice, or service because of a disability, even if the words “reasonable accommodation” are not used as part of the request.

15. What if a housing provider fails to act promptly on a reasonable accommodation request?

A provider has an obligation to provide prompt responses to reasonable accommodation requests. An undue delay in responding to a reasonable accommodation request may be deemed to be a failure to provide a reasonable accommodation.

16. What inquiries, if any, may a housing provider make of current or potential residents regarding the existence of a disability when they have not asked for an accommodation?

Under the Fair Housing Act, it is usually unlawful for a housing provider to (1) ask if an applicant for a dwelling has a disability or if a person intending to reside in a dwelling or anyone associated with an applicant or resident has a disability, or (2) ask about the nature or severity of such persons' disabilities. Housing providers may, however, make the following inquiries, provided these inquiries are made of all applicants, including those with and without disabilities:

- An inquiry into an applicant's ability to meet the requirements of tenancy;
- An inquiry to determine if an applicant is a current illegal abuser or addict of a controlled substance;
- An inquiry to determine if an applicant qualifies for a dwelling legally available only to persons with a disability or to persons with a particular type of disability; and
- An inquiry to determine if an applicant qualifies for housing that is legally available on a priority basis to persons with disabilities or to persons with a particular disability.

Example 1: A housing provider offers accessible units to persons with disabilities needing the features of these units on a priority basis. The provider may ask applicants if they have a disability and if, in light of their disability, they will benefit from the features of the units. However, the provider may not ask applicants if they have other types of physical or mental impairments. If the applicant's disability and the need for the accessible features are not readily apparent, the provider may request reliable information/documentation of the disability-related need for an accessible unit.

Example 2: A housing provider operates housing that is legally limited to persons with chronic mental illness. The provider may ask applicants for information needed to determine if they have a mental disability that would qualify them for the housing. However, in this circumstance, the provider may not ask applicants if they have other types of physical or mental impairments. If it is not readily apparent that an applicant has a chronic mental disability, the provider may request reliable information/documentation of the mental disability needed to qualify for the housing.

In some instances, a provider may also request certain information about an applicant's or a resident's disability if the applicant or resident requests a reasonable accommodation. See Questions 17 and 18 below.

17. What kinds of information, if any, may a housing provider request from a person with an obvious or known disability who is requesting a reasonable accommodation?

A provider is entitled to obtain information that is necessary to evaluate if a requested reasonable accommodation may be necessary because of a disability. If a person's disability is obvious, or otherwise known to the provider, and if the need for the requested accommodation is also readily apparent or known, then the provider may not request any additional information

about the requester's disability or the disability-related need for the accommodation.

If the requester's disability is known or readily apparent to the provider, but the need for the accommodation is not readily apparent or known, the provider may request only information that is necessary to evaluate the disability-related need for the accommodation.

Example 1: An applicant with an obvious mobility impairment who regularly uses a walker to move around asks her housing provider to assign her a parking space near the entrance to the building instead of a space located in another part of the parking lot. Since the physical disability (*i.e.*, difficulty walking) and the disability-related need for the requested accommodation are both readily apparent, the provider may not require the applicant to provide any additional information about her disability or the need for the requested accommodation.

Example 2: A rental applicant who uses a wheelchair advises a housing provider that he wishes to keep an assistance dog in his unit even though the provider has a "no pets" policy. The applicant's disability is readily apparent but the need for an assistance animal is not obvious to the provider. The housing provider may ask the applicant to provide information about the disability-related need for the dog.

Example 3: An applicant with an obvious vision impairment requests that the leasing agent provide assistance to her in filling out the rental application form as a reasonable accommodation because of her disability. The housing provider may not require the applicant to document the existence of her vision impairment.

18. If a disability is not obvious, what kinds of information may a housing provider request from the person with a disability in support of a requested accommodation?

A housing provider may not ordinarily inquire as to the nature and severity of an individual's disability (*see* Answer 16, above). However, in response to a request for a reasonable accommodation, a housing provider may request reliable disability-related information that (1) is necessary to verify that the person meets the Act's definition of disability (*i.e.*, has a physical or mental impairment that substantially limits one or more major life activities), (2) describes the needed accommodation, and (3) shows the relationship between the person's disability and the need for the requested accommodation. Depending on the individual's circumstances, information verifying that the person meets the Act's definition of disability can usually be provided by the individual himself or herself (*e.g.*, proof that an individual under 65 years of age receives Supplemental Security Income or Social Security Disability Insurance benefits¹⁰ or a credible statement by the individual). A doctor or other

¹⁰ Persons who meet the definition of disability for purposes of receiving Supplemental Security Income ("SSI") or Social Security Disability Insurance ("SSDI") benefits in most cases meet the definition of disability under the Fair Housing Act, although the converse may not be true. *See e.g., Cleveland v. Policy Management Systems Corp.*, 526 U.S. 795, 797 (1999)

medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may also provide verification of a disability. In most cases, an individual's medical records or detailed information about the nature of a person's disability is not necessary for this inquiry.

Once a housing provider has established that a person meets the Act's definition of disability, the provider's request for documentation should seek only the information that is necessary to evaluate if the reasonable accommodation is needed because of a disability. Such information must be kept confidential and must not be shared with other persons unless they need the information to make or assess a decision to grant or deny a reasonable accommodation request or unless disclosure is required by law (*e.g.*, a court-issued subpoena requiring disclosure).

19. If a person believes she has been unlawfully denied a reasonable accommodation, what should that person do if she wishes to challenge that denial under the Act?

When a person with a disability believes that she has been subjected to a discriminatory housing practice, including a provider's wrongful denial of a request for reasonable accommodation, she may file a complaint with HUD within one year after the alleged denial or may file a lawsuit in federal district court within two years of the alleged denial. If a complaint is filed with HUD, HUD will investigate the complaint at no cost to the person with a disability.

There are several ways that a person may file a complaint with HUD:

- By placing a toll-free call to 1-800-669-9777 or TTY 1-800-927-9275;
- By completing the "on-line" complaint form available on the HUD internet site: <http://www.hud.gov>; or
- By mailing a completed complaint form or letter to:

Office of Fair Housing and Equal Opportunity
Department of Housing & Urban Development
451 Seventh Street, S.W., Room 5204
Washington, DC 20410-2000

(noting that SSDI provides benefits to a person with a disability so severe that she is unable to do her previous work and cannot engage in any other kind of substantial gainful work whereas a person pursuing an action for disability discrimination under the Americans with Disabilities Act may state a claim that "with a reasonable accommodation" she could perform the essential functions of the job).

Upon request, HUD will provide printed materials in alternate formats (large print, audio tapes, or Braille) and provide complainants with assistance in reading and completing forms.

The Civil Rights Division of the Justice Department brings lawsuits in federal courts across the country to end discriminatory practices and to seek monetary and other relief for individuals whose rights under the Fair Housing Act have been violated. The Civil Rights Division initiates lawsuits when it has reason to believe that a person or entity is involved in a "pattern or practice" of discrimination or when there has been a denial of rights to a group of persons that raises an issue of general public importance. The Division also participates as *amicus curiae* in federal court cases that raise important legal questions involving the application and/or interpretation of the Act. To alert the Justice Department to matters involving a pattern or practice of discrimination, matters involving the denial of rights to groups of persons, or lawsuits raising issues that may be appropriate for *amicus* participation, contact:

U.S. Department of Justice
Civil Rights Division
Housing and Civil Enforcement Section – G St.
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

For more information on the types of housing discrimination cases handled by the Civil Rights Division, please refer to the Housing and Civil Enforcement Section's website at <http://www.usdoj.gov/crt/housing/hcehome.html>.

A HUD or Department of Justice decision not to proceed with a Fair Housing Act matter does not foreclose private plaintiffs from pursuing a private lawsuit. However, litigation can be an expensive, time-consuming, and uncertain process for all parties. HUD and the Department of Justice encourage parties to Fair Housing Act disputes to explore all reasonable alternatives to litigation, including alternative dispute resolution procedures, such as mediation. HUD attempts to conciliate all Fair Housing Act complaints. In addition, it is the Department of Justice's policy to offer prospective defendants the opportunity to engage in pre-suit settlement negotiations, except in the most unusual circumstances.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-2000

OFFICE OF FAIR HOUSING
AND EQUAL OPPORTUNITY

SPECIAL ATTENTION OF:

HUD Regional and Field Office Directors of
Public and Indian Housing (PIH); Housing;
Community Planning and Development
(CPD); Fair Housing and Equal Opportunity;
and Regional Counsel; CPD, PIH, and
Housing Program Providers

FHEO Notice: **FHEO-2020-01**
Issued: January 28, 2020
Expires: Effective until Amended,
Superseded, or Rescinded.

Subject: Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act

1. **Purpose:** This notice explains certain obligations of housing providers under the Fair Housing Act (FHA) with respect to animals that individuals with disabilities may request as reasonable accommodations. There are two types of assistance animals: (1) service animals, and (2) other trained or untrained animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities (referred to in this guidance as a "support animal"). Persons with disabilities may request a reasonable accommodation for service animals and other types of assistance animals, including support animals, under the FHA. This guidance provides housing providers with a set of best practices for complying with the FHA when assessing requests for reasonable accommodations to keep animals in housing, including the information that a housing provider may need to know from a health care professional about an individual's need for an assistance animal in housing. This guidance replaces HUD's prior guidance, FHEO-2013-01, on housing providers' obligations regarding service animals and assistance animals. In particular, this guidance provides a set of best practices regarding the type and amount of documentation a housing provider may ask an individual with a disability to provide in support of an accommodation request for a support animal, including documentation of a disability (that is, physical or mental impairments that substantially limit at least one major life activity) or a disability-related need for a support animal when the disability or disability-related need for the animal is non-obvious and not known to the housing provider. By providing greater clarity through this guidance, HUD seeks to provide housing providers with a tool they may use to reduce burdens that they may face when they are uncertain about the type and amount of documentation they may need and may be permitted to request when an individual seeks to keep a support animal in housing. Housing providers may be subject to the requirements of several civil rights laws, including but not limited to the FHA, Section 504 of the Rehabilitation Act (Section 504), and the Americans with Disabilities Act (ADA). This guidance does not address how HUD will process complaints against housing providers under Section 504 or the ADA.

2. **Applicability:** This notice applies to all housing providers covered by the FHA.¹
3. **Organization:** There are two sections to this notice. The first, “Assessing a Person’s Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act,” recommends a set of best practices for complying with the FHA when assessing accommodation requests involving animals to assist housing providers and help them avoid violations of the FHA. The second section to this notice, “Guidance on Documenting an Individual’s Need for Assistance Animals in Housing,” provides guidance on information that an individual seeking a reasonable accommodation for an assistance animal may need to provide to a housing provider about his or her disability-related need for the requested accommodation, including supporting information from a health care professional.

Questions regarding this notice may be directed to the HUD Office of Fair Housing and Equal Opportunity, Office of the Deputy Assistant Secretary for Enforcement and Programs, or your local HUD Office of Fair Housing and Equal Opportunity.

Anna María Farías, Assistant Secretary for
Fair Housing and Equal Opportunity

¹ The Fair Housing Act covers virtually all types of housing, including privately owned housing and federally assisted housing, with a few limited exceptions.

Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act²

The Fair Housing Act (FHA) makes it unlawful for a housing provider³ to refuse to make a reasonable accommodation that a person with a disability may need in order to have equal opportunity to enjoy and use a dwelling.⁴ One common request housing providers receive is for a reasonable accommodation to providers' pet or no animal policies so that individuals with disabilities are permitted to use assistance animals in housing,⁵ including public and common use areas.

Assistance animals are not pets. They are animals that do work, perform tasks, assist, and/or provide therapeutic emotional support for individuals with disabilities.⁶ There are two types of assistance animals: (1) service animals, and (2) other animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities (referred to in this guidance as a "support animal").⁷ An animal that does not qualify as a service animal or other type of assistance animal is a pet for purposes of the FHA and may be treated as a pet for purposes of the lease and the housing provider's rules and policies. A housing provider may exclude or charge a fee or deposit for pets in its discretion and subject to local law but not for service animals or other assistance animals.⁸

² This document is an integral part of U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity Notice FHEO-2020-01, dated January 28, 2020 (sometimes referred to as the "Assistance Animal Notice").

³ The term "housing provider" refers to any person or entity engaging in conduct covered by the FHA. Courts have applied the FHA to individuals, corporations, partnerships, associations, property owners, housing managers, homeowners and condominium associations, cooperatives, lenders, insurers, real estate agents, brokerage services, state and local governments, colleges and universities, as well as others involved in the provision of housing, residential lending, and other real estate-related services.

⁴ 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204. Unless otherwise specified, all citations refer to those authorities effective as of the date of the publication of this guidance.

⁵ For purposes of this guidance, the term "housing" refers to all housing covered by the Fair Housing Act, including apartments, condominiums, cooperatives, single family homes, nursing homes, assisted living facilities, group homes, domestic violence shelters, emergency shelters, homeless shelters, dormitories, and other types of housing covered by the FHA.

⁶ See 24 C.F.R. § 5.303(a).

⁷ Under the FHA, a disability is a physical or mental impairment that substantially limits one or more major life activities. See 24 C.F.R. § 100.201.

⁸ See Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations Under the Fair Housing Act ("Joint Statement"), Q and A 11 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>; *Fair Hous. of the Dakotas, Inc. v. Goldmark Prop. Mgmt.*, 778 F. Supp. 2d 1028 (D.N.D. 2011). HUD views the Joint Statement as well-reasoned guidance on some of the topics addressed in this guidance. The Joint Statement, available to the public since 2004, has been cited from time to time by courts. See, e.g., *Bhogaita v. Altamonte Heights Condo. Ass'n*, 765 F.3d 1277, 1286 (11th Cir. 2014); *Siniscallo*

As of the date of the issuance of this guidance, FHA complaints concerning denial of reasonable accommodations and disability access comprise almost 60% of all FHA complaints and those involving requests for reasonable accommodations for assistance animals are significantly increasing. In fact, such complaints are one of the most common types of fair housing complaints that HUD receives. In addition, most HUD charges of discrimination against a housing provider following a full investigation involve the denial of a reasonable accommodation to a person who has a physical or mental disability that the housing provider cannot readily observe.⁹

HUD is providing this guidance to help housing providers distinguish between a person with a non-obvious disability who has a legitimate need for an assistance animal and a person without a disability who simply wants to have a pet or avoid the costs and limitations imposed by housing providers' pet policies, such as pet fees or deposits. The guidance may also help persons with a disability who request a reasonable accommodation to use an assistance animal in housing.

While most requests for reasonable accommodations involve one animal, requests sometimes involve more than one animal (for example, a person has a disability-related need for both animals, or two people living together each have a disability-related need for a separate assistance animal). The decision-making process in this guidance can be used for all requests for exceptions or modifications to housing providers' rules, policies, practices, and/or procedures so persons with disabilities can have assistance animals in the housing where they reside.

This guidance is provided as a tool for housing providers and persons with a disability to use at their discretion and provides a set of best practices for addressing requests for reasonable accommodations to keep animals in housing where individuals with disabilities reside or seek to reside. It should be read together with HUD's regulations prohibiting discrimination under the FHA¹⁰—with which housing providers must comply—and the HUD/Department of Justice (DOJ) Joint Statement on Reasonable Accommodation under the Fair Housing Act, available at <https://www.hud.gov/sites/documents/huddojstatement.pdf>. A housing provider may also be subject to the Americans with Disabilities Act (ADA) and therefore should also refer to DOJ's regulations implementing Title II and Title III of the ADA at 28 C.F.R. parts 35 and 36, and DOJ's guidance on service animals, *Frequently Asked Questions about Service Animals and the ADA* at https://www.ada.gov/regs2010/service_animal_qa.html and *ADA Requirements: Service Animals* at https://www.ada.gov/service_animals_2010.htm. This guidance replaces HUD's prior guidance on housing providers' obligations regarding service animals and assistance animals.¹¹ Housing

v. Town of Islip Hous. Auth., 865 F. Supp. 2d 307, 336-42 (E.D.N.Y. 2012). However, HUD does not intend to imply that the Joint Statement is independently binding statutory or regulatory authority. HUD understands it to be subject to applicable limitations on the use of guidance. See "Treatment as a Guidance Document" on p.5 for a citation of authorities on permissible use of guidance.

⁹ See, e.g., *HUD v. Castillo Condominium Ass'n*, No. 12-M-034-FH-9, 2014 HUD ALJ LEXIS 2 (HUD Sec'y, October 02, 2014) aff'd, 821 F.3d 92 (1st Cir. 2016); *HUD v. Riverbay*, No. 11-F-052-FH-18, 2012 HUD ALJ LEXIS 15 (HUD ALJ, May 07, 2012), aff'd, 2012 ALJ LEXIS 19 (HUD Sec'y June 06, 2012).

¹⁰ 24 C.F.R. Part 100.

¹¹ FHEO-2013-01.

providers should not reassess requests for reasonable accommodations that were granted prior to the issuance of this guidance in compliance with the FHA.

Treatment as a Guidance Document

As a guidance document, this document does not expand or alter housing providers' obligations under the Fair Housing Act or HUD's implementing regulations. It should be construed consistently with Executive Order 13891 of October 9, 2019 entitled "Promoting the Rule of Law Through Improved Agency Guidance Documents," Executive Order 13892 of October 9, 2019 entitled "Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication," the Office of Management and Budget Memorandum M-20-02 entitled "Guidance Implementing Executive Order 13891, Titled 'Promoting the Rule of Law Through Improved Agency Guidance Documents,'" the Department of Justice Memorandum of January 25, 2018 entitled "Limiting Use of Agency Guidance Documents in Affirmative Civil Enforcement Cases," and the Department of Justice Memorandum of November 16, 2017 entitled "Prohibition on Improper Guidance Documents."

Part I: Service Animals

The FHA requires housing providers to modify or make exceptions to policies governing animals when it may be necessary to permit persons with disabilities to utilize animals.¹² Because HUD interprets the FHA to require access for individuals who use service animals, housing providers should initially follow the analysis that DOJ has determined is used for assessing whether an animal is a service animal under the ADA.¹³ The Department of Justice's ADA regulations generally require state and local governments and public accommodations to permit the use of service animals by an individual with a disability.¹⁴ For support animals and other assistance animals that may be necessary in housing, although the ADA does not provide for access, housing providers must comply with the FHA, which does provide for access.¹⁵

¹² 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204. See also Pet Ownership for the Elderly and Persons with Disabilities – Final Rule, 73 Fed. Reg. 63833 (Oct. 27, 2008).

¹³ 24 C.F.R. § 100.204(b).

¹⁴ 28 C.F.R. §§ 35.136(g); 36.302(c)(7).

¹⁵ Specifically, under the Fair Housing Act, housing providers are obligated to permit, as a reasonable accommodation, the use of animals that work, provide assistance, or perform tasks that benefit persons with disabilities, or provide emotional support to alleviate a symptom or effect of a disability. Separate regulations govern airlines and other common carriers, which are outside the scope of this guidance.

What is a service animal?

Under the ADA, “*service animal* means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability.”¹⁶

As a best practice, housing providers may use the following questions to help them determine if an animal is a service animal under the ADA:¹⁷

1. Is the animal a dog?
 - If “yes,” proceed to the next question.
 - If “no,” the animal is not a service animal but may be another type of assistance animal for which a reasonable accommodation is needed.¹⁸ Proceed to Part II below.
2. Is it readily apparent that the dog is trained to do work or perform tasks for the benefit of an individual with a disability?
 - If “yes,” further inquiries are unnecessary and inappropriate because the animal is a service animal.¹⁹
 - If “no,” proceed to the next question.

It is *readily apparent* when the dog is observed:

- guiding an individual who is blind or has low vision
- pulling a wheelchair
- providing assistance with stability or balance to an individual with an observable mobility disability²⁰

3. It is advisable for the housing provider to limit its inquiries to the following two questions:
 - The housing provider may ask in substance: (1) “Is the animal required because of a

¹⁶ 28 C.F.R. §§ 35.104; 36.104 (emphasis added).

¹⁷ 28 C.F.R. §§ 35.136; 36.302(c).

¹⁸ Although a miniature horse is not a service animal, DOJ has determined that the same type of analysis is applied to determine whether a miniature horse should be provided access, although additional considerations, beyond the scope of this guidance, apply. See 28 C.F.R. §§ 35.136(i); 36.302(c)(9).

¹⁹ 28 C.F.R. §§ 35.136(f); 36.302(c)(6).

²⁰ 28 C.F.R. §§ 35.136(f); 36.302(c)(6).

disability?” and (2) “What work or task has the animal been trained to perform?”²¹ Do not ask about the nature or extent of the person’s disability, and do not ask for documentation. A housing provider, at its discretion, may make the truth and accuracy of information provided during the process part of the representations made by the tenant under a lease or similar housing agreement to the extent that the lease or agreement requires the truth and accuracy of other material information.

- If the answer to question (1) is “yes” and work or a task is identified in response to question (2), grant the requested accommodation, if otherwise reasonable, because the animal qualifies as a service animal.
- If the answer to either question is “no” or “none,” the animal does not qualify as a service animal under federal law but may be a support animal or other type of assistance animal that needs to be accommodated. HUD offers guidance to housing providers on this in Part II.

Performing “work or tasks” means that the dog is trained to take a specific action when needed to assist the person with a disability.

- If the individual identifies at least one action the dog is trained to take which is helpful to the disability other than emotional support, the dog should be considered a service animal and permitted in housing, including public and common use areas. Housing providers should not make further inquiries.
- If no specific work or task is identified, the dog should not be considered a service animal but may be another type of animal for which a reasonable accommodation may be required. Emotional support, comfort, well-being, and companionship are not a specific work or task for purposes of analysis under the ADA.

For more information, refer to the ADA rules and service animal guidance on DOJ’s ADA Home Page at www.ada.gov²² or call the ADA Information Line at 1-800-514-0301.

Part II: Analysis of reasonable accommodation requests under the Fair Housing Act for assistance animals other than service animals

A **reasonable accommodation** is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have equal opportunity to use and enjoy a dwelling, including public and common use spaces.

Remember: While it is not necessary to submit a written request or to use the words “reasonable accommodation,” “assistance animal,” or any other special words to request a reasonable accommodation under the FHA, persons making a request are encouraged to do so in order to avoid

²¹ 28 C.F.R. §§ 35.136(f); 36.302(c)(6).

²² See *Frequently Asked Questions About Service Animals and the ADA* at https://www.ada.gov/regs2010/service_animal_qa.html; *ADA Requirements: Service Animals* at https://www.ada.gov/service_animals_2010.htm.

miscommunication.²³ Persons with disabilities may also want to keep a copy of their reasonable accommodation requests and supporting documentation in case there is a later dispute about when or whether a reasonable accommodation request was made. Likewise, housing providers may find it helpful to have a consistently maintained list of reasonable accommodation requests.²⁴

A resident may request a reasonable accommodation either before or after acquiring the assistance animal.²⁵ An accommodation also may be requested after a housing provider seeks to terminate the resident's lease or tenancy because of the animal's presence, although such timing may create an inference against good faith on the part of the person seeking a reasonable accommodation. However, under the FHA, a person with a disability may make a reasonable accommodation request at any time, and the housing provider must consider the reasonable accommodation request even if the resident made the request after bringing the animal into the housing.²⁶

As a best practice, housing providers may use the following questions to help them make a decision when the animal does not meet the definition of service animal.²⁷

4. Has the individual requested a reasonable accommodation — that is, asked to get or keep an animal in connection with a physical or mental impairment or disability?

Note: The request for a reasonable accommodation with respect to an assistance animal may be oral or written. It may be made by others on behalf of the individual, including a person legally residing in the unit with the requesting individual or a legal guardian or authorized representative.²⁸

- If “yes,” proceed to Part III.
- If “no,” the housing provider is not required to grant a reasonable accommodation that has not been requested.

Part III: Criteria for assessing whether to grant the requested accommodation

As a best practice, housing providers may use the following questions to help them assess whether

²³ See Joint Statement, Q and A 12 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

²⁴ See Joint Statement, Q and A 13 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

²⁵ See Joint Statement, Q and A 12 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

²⁶ See 24 C.F.R. § 100.204(a).

²⁷ See *Janush v. Charities Hous. Dev. Corp.*, 169 F.Supp.2d 1133, 1136-37 (N.D. Cal., 2000) (rejecting an argument that a definition of “service dog” should be read into the Fair Housing Act to create a rule that accommodation of animals other than service dogs is per se unreasonable, instead finding that “the law imposes on defendants the obligation to consider each request individually and to grant requests that are reasonable.”).

²⁸ See Joint Statement, Q and A 12 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

to grant the requested accommodation.

5. Does the person have an observable disability or does the housing provider (or agent making the determination for the housing provider) already have information giving them reason to believe that the person has a disability?
 - If “yes,” skip to question #7 to determine if there is a connection between the person’s disability and the animal.
 - If “no,” continue to the next question.

Observable and Non-Observable Disabilities

Under the FHA, a disability is a physical or mental impairment that substantially limits one or more major life activities. While some impairments may seem invisible, others can be readily observed. Observable impairments include blindness or low vision, deafness or being hard of hearing, mobility limitations, and other types of impairments with observable symptoms or effects, such as intellectual impairments (including some types of autism), neurological impairments (*e.g.*, stroke, Parkinson’s disease, cerebral palsy, epilepsy, or brain injury), mental illness, or other diseases or conditions that affect major life activities or bodily functions.²⁹ Observable impairments generally tend to be obvious and would not be reasonably attributable to non-medical causes by a lay person.

Certain impairments, however, especially including impairments that may form the basis for a request for an emotional support animal, may not be observable. In those instances, a housing provider may request information regarding both the disability and the disability-related need for the animal. Housing providers are not entitled to know an individual’s diagnosis.

6. Has the person requesting the accommodation provided information that reasonably supports that the person seeking the accommodation has a disability?³⁰
 - If “yes,” proceed to question #7. A housing provider, at its discretion, may make the truth and accuracy of information provided during the process part of the representations made by the tenant under a lease or similar housing agreement to the extent that the lease or agreement requires the truth and accuracy of other material information.
 - If “no,” the housing provider is not required to grant the accommodation unless this information is provided but may not deny the accommodation on the grounds that the person requesting the accommodation has not provided this information until the requester has been provided a reasonable opportunity to do so.³¹ To assist the person requesting the

²⁹ See 24 C.F.R. § 100.201.

³⁰ See Joint Statement, Q and A 17 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

³¹ This would not permit the housing provider to require any independent evaluation or diagnosis specifically obtained for the housing provider or for the housing provider to engage in its own direct

accommodation to understand what information the housing provider is seeking, the housing provider is encouraged to direct the requester to the Guidance on Documenting an Individual's Need for Assistance Animals in Housing. Referring the requester to that Guidance will also help ensure that the housing provider receives the disability-related information that is actually needed to make a reasonable accommodation decision.

Information About Disability May Include . . .

- A determination of disability from a federal, state, or local government agency.
- Receipt of disability benefits or services (Social Security Disability Income (SSDI)), Medicare or Supplemental Security Income (SSI) for a person under age 65, veterans' disability benefits, services from a vocational rehabilitation agency, or disability benefits or services from another federal, state, or local agency.
- Eligibility for housing assistance or a housing voucher received because of disability.
- Information confirming disability from a health care professional – *e.g.*, physician, optometrist, psychiatrist, psychologist, physician's assistant, nurse practitioner, or nurse.

Note that a determination that an individual does not qualify as having a disability for purposes of a benefit or other program does not necessarily mean the individual does not have a disability for purposes of the FHA, Section 504, or the ADA.³²

Disability Determination

Note that under DOJ's regulations implementing the ADA Amendments Act of 2008, which HUD considers instructive when determining whether a person has a disability under the FHA, some types of impairments will, in virtually all cases, be found to impose a substantial limitation on a major life activity resulting in a determination of a disability.³³ Examples include deafness, blindness, intellectual disabilities, partially or completely missing limbs or mobility impairments requiring the use of a wheelchair, autism, cancer, cerebral palsy, diabetes, epilepsy, muscular dystrophy, multiple sclerosis, Human Immunodeficiency Virus (HIV) infection, major depressive disorder, bipolar disorder, post-traumatic stress disorder, traumatic brain injury, obsessive compulsive disorder, and schizophrenia.³⁴ This does not mean that other conditions are not disabilities. It simply means that in virtually all cases these conditions will be covered as disabilities. While housing providers will be unable to observe or identify some of these impairments, individuals with disabilities sometimes voluntarily provide more details about their disability than the housing provider actually needs to make decisions on accommodation requests. When this information is provided, housing providers should consider it.

evaluation. See Joint Statement, Q and A 17-18 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

³² See Joint Statement, Q and A 18 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

³³ See 28 C.F.R. §§ 35.108(d)(2); 36.105(d)(2).

³⁴ See 28 C.F.R. §§ 35.108(d)(2)(iii); 36.105(d)(2)(iii).

Documentation from the Internet

Some websites sell certificates, registrations, and licensing documents for assistance animals to anyone who answers certain questions or participates in a short interview and pays a fee. Under the Fair Housing Act, a housing provider may request reliable documentation when an individual requesting a reasonable accommodation has a disability and disability-related need for an accommodation that are not obvious or otherwise known.³⁵ In HUD's experience, such documentation from the internet is not, by itself, sufficient to reliably establish that an individual has a non-observable disability or disability-related need for an assistance animal.

By contrast, many legitimate, licensed health care professionals deliver services remotely, including over the internet. One reliable form of documentation is a note from a person's health care professional that confirms a person's disability and/or need for an animal when the provider has personal knowledge of the individual.

7. Has the person requesting the accommodation provided information which reasonably supports that the animal does work, performs tasks, provides assistance, and/or provides therapeutic emotional support with respect to the individual's disability?³⁶
 - If "yes," proceed to Part IV. A housing provider, at its discretion, may make the truth and accuracy of information provided during the process part of the representations made by the tenant under a lease or similar housing agreement to the extent that the lease or agreement requires the truth and accuracy of other material information.
 - If "no," the housing provider is not required to grant the accommodation unless this information is provided but may not deny the accommodation on the grounds that the person requesting the accommodation has not provided this information until the requester has been provided a reasonable opportunity to do so. To assist the person requesting the accommodation to understand what information the housing provider is seeking, the housing provider is encouraged to direct the requester to the Guidance on Documenting an Individual's Need for Assistance Animals in Housing. Referring the requester to that Guidance will also help ensure that the housing provider receives the disability-related information that is actually needed to make a reasonable accommodation decision.

³⁵ See Joint Statement, Q and A 18 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

³⁶ See *Fair Hous. of the Dakotas, Inc. v. Goldmark Prop. Mgmt.*, 778 F. Supp. 2d 1028 (D.N.D. 2011) (determining that, in housing, a broader variety of assistance animals may be necessary as a reasonable accommodation, regardless of specific training).

Information Confirming Disability-Related Need for an Assistance Animal. . .

- Reasonably supporting information often consists of information from a licensed health care professional – *e.g.*, physician, optometrist, psychiatrist, psychologist, physician’s assistant, nurse practitioner, or nurse – general to the condition but specific as to the individual with a disability and the assistance or therapeutic emotional support provided by the animal.
- A relationship or connection between the disability and the need for the assistance animal must be provided. This is particularly the case where the disability is non-observable, and/or the animal provides therapeutic emotional support.
- For non-observable disabilities and animals that provide therapeutic emotional support, a housing provider may ask for information that is consistent with that identified in the Guidance on Documenting an Individual’s Need for Assistance Animals in Housing (*see Questions 6 and 7) in order to conduct an individualized assessment of whether it must provide the accommodation under the Fair Housing Act. The lack of such documentation in many cases may be reasonable grounds for denying a requested accommodation.

Part IV: Type of Animal

8. Is the animal commonly kept in households?

- If “yes,” the reasonable accommodation should be provided under the FHA unless the general exceptions described below exist.³⁷
- If “no,” a reasonable accommodation need not be provided, but note the very rare circumstances described below.

Animals commonly kept in households. If the animal is a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes, then the reasonable accommodation should be granted because the requestor has provided information confirming that there is a disability-related need for the animal.³⁸ For purposes of this assessment, reptiles (other than turtles), barnyard animals, monkeys, kangaroos, and other non-domesticated animals are not considered common household animals.

Unique animals. If the individual is requesting to keep a unique type of animal that is not commonly kept in households as described above, then the requestor has the substantial burden of demonstrating a disability-related therapeutic need for the specific animal or the specific type of animal. The individual is encouraged to submit documentation from a health care professional confirming the need for this animal, which includes information of the type set out in the Guidance on Documenting an Individual’s Need for Assistance Animals in Housing. While this guidance

³⁷ See, *e.g.*, *Majors v. Hous. Auth. of the Cnty. of DeKalb Georgia*, 652 F.2d 454, 457 (5th Cir. 1981) (enforcing a “no pets” rule against an individual with a disability who needs an animal as a reasonable accommodation effectively deprives the individual of the benefits of the housing).

³⁸ See 24 C.F.R. § 100.204(a).

does not establish any type of new documentary threshold, the lack of such documentation in many cases may be reasonable grounds for denying a requested accommodation. If the housing provider enforces a “no pets” policy or a policy prohibiting the type of animal the individual seeks to have, the housing provider may take reasonable steps to enforce the policy if the requester obtains the animal before submitting reliable documentation from a health care provider that reasonably supports the requestor’s disability-related need for the animal. As a best practice, the housing provider should make a determination promptly, generally within 10 days of receiving documentation.³⁹

Reasonable accommodations may be necessary when the need for a unique animal involves unique circumstances ...

Examples:

- The animal is individually trained to do work or perform tasks that cannot be performed by a dog.
- Information from a health care professional confirms that:
 - Allergies prevent the person from using a dog; or
 - Without the animal, the symptoms or effects of the person’s disability will be significantly increased.
- The individual seeks to keep the animal outdoors at a house with a fenced yard where the animal can be appropriately maintained.

Example: A Unique Type of Support Animal

An individually trained capuchin monkey performs tasks for a person with paralysis caused by a spinal cord injury. The monkey has been trained to retrieve a bottle of water from the refrigerator, unscrew the cap, insert a straw, and place the bottle in a holder so the individual can get a drink of water. The monkey is also trained to switch lights on and off and retrieve requested items from inside cabinets. The individual has a disability-related need for this specific type of animal because the monkey can use its hands to perform manual tasks that a service dog cannot perform.

Part V: General Considerations

- The FHA does not require a dwelling to be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.⁴⁰ A housing provider may, therefore, refuse a reasonable accommodation for an assistance animal if the specific animal poses a direct threat that cannot be eliminated or reduced to an acceptable level through actions the individual takes to maintain or control the animal (e.g., keeping the

³⁹ See Joint Statement, Q and A 15 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

⁴⁰ See 24 C.F.R. § 100.202(d).

animal in a secure enclosure).⁴¹

- A reasonable accommodation may include a reasonable accommodation to a land use and zoning law, Homeowners Association (HOA) rule, or co-op rule.⁴²
- A housing provider may not charge a fee for processing a reasonable accommodation request.⁴³
- Pet rules do not apply to service animals and support animals. Thus, housing providers may not limit the breed or size of a dog used as a service animal or support animal just because of the size or breed⁴⁴ but can, as noted, limit based on specific issues with the animal's conduct because it poses a direct threat or a fundamental alteration.⁴⁵
- A housing provider may not charge a deposit, fee, or surcharge for an assistance animal. A housing provider, however, may charge a tenant for damage an assistance animal causes if it is the provider's usual practice to charge for damage caused by tenants (or deduct it from the standard security deposits imposed on all tenants).
- A person with a disability is responsible for feeding, maintaining, providing veterinary care, and controlling his or her assistance animal. The individual may do this on his or her own or with the assistance of family, friends, volunteers, or service providers.
- Individuals with disabilities and housing providers may reference the best practices provided in this guidance in making and responding to reasonable accommodation requests within the scope of this guidance for as long as it remains in effect. HUD strongly encourages individuals with disabilities and housing providers to give careful attention to this guidance when making reasonable accommodation requests and decisions relating to animals.
- Failure to adhere to this guidance does not necessarily constitute a violation by housing providers of the FHA or regulations promulgated thereunder.⁴⁶
- Before denying a reasonable accommodation request due to lack of information confirming an individual's disability or disability-related need for an animal, the housing provider is encouraged to engage in a good-faith dialogue with the requestor called the "interactive process."⁴⁷ The housing provider may not insist on specific types of evidence if the information which is provided or actually known to the housing provider meets the requirements of this guidance (except as provided above). Disclosure of details about the diagnosis or severity of a disability or medical records or a medical examination cannot be required.

⁴¹ See Joint Statement Q and A 4 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

⁴² See *Warren v. Delvista Towers Condo. Ass'n*, 49 F. Supp. 3d 1082 (S.D. Fla. 2014).

⁴³ See Joint Statement, Q and A 11 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>; *Fair Hous. of the Dakotas, Inc. v. Goldmark Prop. Mgmt.*, 778 F. Supp. 2d 1028 (D.N.D. 2011).

⁴⁴ See, e.g., *Bhogaita v. Altamonte Heights Condo. Ass'n*, 765 F.3d 1277 (11th Cir. 2014) (reasonable accommodation to a housing provider's rule that all dogs must be under 25 pounds).

⁴⁵ See 24 C.F.R. § 100.202(d); Joint Statement, Q and A's 5 & 7 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

⁴⁶ See "Treatment as a Guidance Document" on p.5 for a citation of authorities on permissible use of guidance.

⁴⁷ See Joint Statement, Q and A 7 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

If a reasonable accommodation request, provided under the framework of this guidance, is denied because it would impose a fundamental alteration to the nature of the provider's operations or impose an undue financial and administrative burden, the housing provider should engage in the interactive process to discuss whether an alternative accommodation may be effective in meeting the individual's disability-related needs.⁴⁸

⁴⁸ For guidance on what constitutes a fundamental alteration or an undue financial and administrative burden, refer to the HUD/DOJ Joint Statement on Reasonable Accommodation under the Fair Housing Act, available at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

Guidance on Documenting an Individual's Need for Assistance Animals in Housing

This section provides best practices for documenting an individual's need for assistance animals in housing. It offers a summary of information that a housing provider may need to know from a health care professional about an individual's need for an assistance animal in housing. It is intended to help individuals with disabilities explain to their health care professionals the type of information that housing providers may need to help them make sometimes difficult legal decisions under fair housing laws. It also will help an individual with a disability and their health care provider understand what information may be needed to support an accommodation request when the disability or disability-related need for an accommodation is not readily observable or known by the housing provider. Housing providers may not require a health care professional to use a specific form (including this document), to provide notarized statements, to make statements under penalty of perjury, or to provide an individual's diagnosis or other detailed information about a person's physical or mental impairments.⁴⁹ Housing providers and the U.S. Department of Housing and Urban Development rely on professionals to provide accurate information to the best of their personal knowledge, consistent with their professional obligations. This document only provides assistance on the type of information that may be needed under the Fair Housing Act (FHA). The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. Further, this document does not create any obligation to provide health-care information and does not authorize or solicit the collection of any information not otherwise permitted by the FHA.⁵⁰

The Appendix to this Guide answers some commonly asked questions about terms and issues below. An understanding of the terms and issues is helpful to providing this information.

When providing this information, health care professionals should use personal knowledge of their patient/client – *i.e.*, the knowledge used to diagnose, advise, counsel, treat, or provide health care or other disability-related services to their patient/client. **Information relating to an individual's disability and health conditions must be kept confidential and cannot be shared with other**

⁴⁹ See Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations Under the Fair Housing Act ("Joint Statement"), Q and A's 13, 16-18 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

⁵⁰ This guidance does not expand on the obligations under the FHA or HUD's regulations and should be construed consistently with Executive Order 13891 of October 9, 2019 entitled "Promoting the Rule of Law Through Improved Agency Guidance Documents," Executive Order 13892 of October 9, 2019 entitled "Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication," the Department of Justice Memorandum of January 25, 2018 entitled "Limiting Use of Agency Guidance Documents in Affirmative Civil Enforcement Cases," and the Department of Justice Memorandum of November 16, 2017 entitled "Prohibition on Improper Guidance Documents."

persons unless the information is needed for evaluating whether to grant or deny a reasonable accommodation request or unless disclosure is required by law.⁵¹

As a best practice, documentation contemplated in certain circumstances by the Assistance Animals Guidance is recommended to include the following general information:

- The patient's name,
- Whether the health care professional has a professional relationship with that patient/client involving the provision of health care or disability-related services, and
- The type of animal(s) for which the reasonable accommodation is sought (i.e., dog, cat, bird, rabbit, hamster, gerbil, other rodent, fish, turtle, other specified type of domesticated animal, or other specified unique animal).⁵²

Disability-related information. A disability for purposes of fair housing laws exists when a person has a physical or mental impairment that substantially limits one or more major life activities.⁵³ Addiction caused by current, illegal use of a controlled substance does not qualify as a disability.⁵⁴ As a best practice, it is recommended that individuals seeking reasonable accommodations for support animals ask health care professionals to provide information related to the following:

- Whether the patient has a physical or mental impairment,
- Whether the patient's impairment(s) substantially limit at least one major life activity or major bodily function, and
- Whether the patient needs the animal(s) (because it does work, provides assistance, or performs at least one task that benefits the patient because of his or her disability, or because it provides therapeutic emotional support to alleviate a symptom or effect of the disability of the patient/client, and not merely as a pet).

Additionally, if the animal is not a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes, it may be helpful for patients to ask health care professionals to provide the following additional information:

- The date of the last consultation with the patient,
- Any unique circumstances justifying the patient's need for the particular animal (if already owned or identified by the individual) or particular type of animal(s), and
- Whether the health care professional has reliable information about this specific animal or

⁵¹ See Joint Statement, Q and A 18 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

⁵² See, e.g., *Janush v. Charities Housing Development Corporation*, 169 F.Supp.2d 1133, 1136-37 (N.D. Cal. 2000) (rejecting an argument that a definition of "service dog" should be read into the Fair Housing Act to create a rule that accommodation of animals other than service dogs is per se unreasonable, finding that "the law imposes on defendants the obligation to consider each request individually and to grant requests that are reasonable.").

⁵³ 24 C.F.R. § 100.201.

⁵⁴ 24 C.F.R. § 100.201.

whether they specifically recommended this type of animal.

It is also recommended that the health care professional sign and date any documentation provided and provide contact information and any professional licensing information.

Appendix

What are assistance animals?

Assistance animals do work, perform tasks, provide assistance, or provide emotional support for a person with a physical or mental impairment that substantially limits at least one major life activity or bodily function.⁵⁵

What are physical or mental impairments?

Physical or mental impairments include: any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

Any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disability; or

Diseases and conditions such as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.⁵⁶

What are major life activities or major bodily functions?

They are: seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, and working.⁵⁷

Other impairments – based on specific facts in individual cases -- may also substantially limit at least one major life activity or bodily function.⁵⁸

What are Some Examples of Work, Tasks, Assistance, and Emotional Support?

⁵⁵ See 24 C.F.R. §§ 5.303; 960.705.

⁵⁶ See 24 C.F.R. § 100.201.

⁵⁷ See 24 C.F.R. § 100.201(b).

⁵⁸ See 24 C.F.R. § 100.201.

Some examples of work and tasks that are commonly performed by service dogs include⁵⁹:

- Assisting individuals who are blind or have low vision with navigation and other tasks,
- Alerting individuals who are deaf or hard of hearing to the presence of people or sounds,
- Providing non-violent protection or rescue work,
- Pulling a wheelchair,
- Alerting a person with epilepsy to an upcoming seizure and assisting the individual during the seizure,
- Alerting individuals to the presence of allergens,
- Retrieving the telephone or summoning emergency assistance, or
- Providing physical support and assistance with balance and stability to individuals with mobility disabilities.

Some other examples of work, tasks or other types of assistance provided by animals include:⁶⁰

- Helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors,
- Reminding a person with mental illness to take prescribed medication,
- Alerting a person with diabetes when blood sugar is high or low,
- Taking an action to calm a person with post-traumatic stress disorder (PTSD) during an anxiety attack,
- Assisting the person in dealing with disability-related stress or pain,
- Assisting a person with mental illness to leave the isolation of home or to interact with others,
- Enabling a person to deal with the symptoms or effects of major depression by providing a reason to live, or
- Providing emotional support that alleviates at least one identified symptom or effect of a physical or mental impairment.

What are examples of a patient's need for a unique animal or unique circumstances?⁶¹

- The animal is individually trained to do work or perform tasks that cannot be performed by a dog.
- Information from a health care professional confirms that:
 - Allergies prevent the person from using a dog, or
 - Without the animal, the symptoms or effects of the person's disability will be significantly increased.
- The individual seeks a reasonable accommodation to a land use and zoning law, Homeowners Association (HOA) rule, or condominium or co-op rule.
- The individual seeks to keep the animal outdoors at a house with a fenced yard where the animal can be appropriately maintained.

⁵⁹ See 28 C.F.R. §§ 35.136(f); 36.302(c)(6).

⁶⁰ See, e.g., *Majors v. Housing Authority of the County of DeKalb Georgia*, 652 F.2d 454, 457 (5th Cir. 1981); *Janush*, 169 F.Supp.2d at 1136-37.

⁶¹ See, e.g., *Anderson v. City of Blue Ash*, 798 F.3d 338, 360-63 (6th Cir. 2015) (seeking a reasonable accommodation to keep a miniature horse as an assistance animal).



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/ Reasonable Accommodations and

Modifications

REASONABLE ACCOMMODATIONS AND MODIFICATIONS

Federal nondiscrimination laws
require housing providers to grant
requests for reasonable
accommodations and modifications in
housing, programs, and activities.

Rights and Obligations Under Federal

Law

(https://www.hud.gov/program_offices/fair_housing_equal_opp/reasonable_accommodations_and_modifications/)

Reasonable Accommodations

(https://www.hud.gov/program_offices/fair_housing_equal_opp/reasonable_accommodations_and_modifications/#accommodations)

Reasonable Modifications

(https://www.hud.gov/program_offices/fair_housing_equal_opp/reasonable_accommodations_and_modifications/#modifications)

Examples

(https://www.hud.gov/program_offices/fair_housing_equal_opp/reasonable_accommodations_and_modifications/#examples)

Questions and Answers

(https://www.hud.gov/program_offices/fair_housing_equal_opp/reasonable_accommodations_and_modifications/#questions-and-answers)

Additional Resources

(https://www.hud.gov/program_offices/fair_housing_equal_opp/reasonable_accommodations_and_modifications/#additional-resources)

Rights and Obligations Under Federal Law

Various federal laws require housing
providers to make reasonable
accommodations and reasonable
modifications for individuals with
disabilities. Federal nondiscrimination
laws that protect against disability
discrimination cover not only tenants and
home seekers with disabilities, but also
buyers and renters without disabilities
who live or are associated with
individuals with disabilities. These laws
also prohibit housing providers from
refusing residency to persons with
disabilities, or placing conditions on their

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residency, because they require reasonable accommodations or modifications.

The Fair Housing Act

Under the Fair Housing Act a reasonable accommodation is a change, exception, or adjustment to a rule, policy, practice, or service. The Fair Housing Act makes it unlawful to refuse to make reasonable accommodations to rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling and public and common use areas.

In addition, the Fair Housing Act prohibits a housing provider from refusing to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises.

Section 504

Unlike the Fair Housing Act, Section 504 does not distinguish between reasonable accommodations and reasonable modifications. Instead, both are captured by the term “reasonable accommodations. Under Section 504, the requirement to make reasonable accommodations applies to any changes that may be necessary to provide equal opportunity to participate in any federally-assisted program or activity. This includes a change, adaptation or modification to a policy, program, service, facility, or workplace which will allow a qualified person with a disability to participate fully in a program, take advantage of a service, live in housing, or perform a job. Reasonable accommodations also include any structural changes that may be necessary. Reasonable accommodations may include changes which may be necessary in order for the person with a disability to use and enjoy a dwelling, including public and common use spaces, or participate in the federally-assisted program or activity. Under Section 504, reasonable accommodations must be provided and paid for by the housing provider unless providing them would be an undue financial and administrative burden or a fundamental alteration of the program. In such cases, the provider is

still required to provide any other reasonable accommodation up to the point that would not result in an undue financial and administrative burden on the particular recipient and/or constitute a fundamental alteration of the program. In addition to the statutory requirement to make reasonable accommodations under Section 504, HUD's Section 504 regulation provides for making "housing adjustments" at 24 C.F.R. § 8.33.

Americans with Disabilities Act (ADA)

Similar to and based upon the Section 504 reasonable accommodation requirement, Titles II and III of the ADA require public entities and public accommodations to make reasonable modifications to policies, practices, or procedures to avoid discrimination. This obligation applies unless the public entity can demonstrate that the modifications would fundamentally alter the nature of its service, program, or activity (Title II), or the public accommodation can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations (Title III). For more information, see the Department of Justice ADA page (<https://www.ada.gov/index.html>).

Reasonable Accommodations

A reasonable accommodation is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with disabilities to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces, or to fulfill their program obligations. Please note that the ADA often refers to these types of accommodations as "modifications."

Any change in the way things are customarily done that enables a person with disabilities to enjoy housing opportunities or to meet program requirements is a reasonable accommodation. In other words, reasonable accommodations eliminate barriers that prevent persons with disabilities from fully participating in housing opportunities, including both private housing and in federally-assisted programs or activities. Housing providers may not require persons with

disabilities to pay extra fees or deposits or place any other special conditions or requirements as a condition of receiving a reasonable accommodation.

Since rules, policies, practices, and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny persons with disabilities an equal opportunity to enjoy a dwelling or participate in the program. Not all persons with disabilities will have a need to request a reasonable accommodation. However, all persons with disabilities have a right to request or be provided a reasonable accommodation at any time.

Under Section 504 and the ADA, public housing agencies, other federally-assisted housing providers, and state or local government entities are required to provide and pay for structural modifications as reasonable accommodations/modifications.

Reasonable Modifications

Under the Fair Housing Act, 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. Reasonable modifications can include structural changes to interiors and exteriors of dwellings and to common and public use areas. Examples include the installation of a ramp into a building, lowering the entry threshold of a unit, or the installation of grab bars in a bathroom. Under the Fair Housing Act, prohibited discrimination includes a refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises.

Under Section 504, a housing provider is required to provide and pay for the structural modification as a reasonable accommodation unless it amounts to an undue financial and administrative burden or a fundamental alteration of the program. If an undue burden or fundamental alteration exists, the recipient is still required to provide any other reasonable accommodation up to the point that would not result in an

undue financial and administrative burden on the particular recipient and/or constitute a fundamental alteration of the program.

For more information, visit Section 504 Frequently Asked Questions page (https://www.hud.gov/program_offices/fair_housing_equal_opp/disabilities/sect504faq).

Note: This requirement to accommodate an individual's request for accessible features under Section 504 is separate from a recipient's affirmative obligation to provide program access and to have an inventory of accessible units available for persons with disabilities. Similarly, under the Fair Housing Act, there are design and construction requirements for covered properties irrespective of the requirement to provide reasonable modifications. Additional information on these physical accessibility requirements is available on the Physical Accessibility (https://www.hud.gov/program_offices/fair_housing_equal_opp/physical_accessibility) page.

Examples

- Assigning an accessible parking space for a person with a mobility impairment
- Permitting a tenant to transfer to a ground-floor unit
- Adjusting a rent payment schedule to accommodate when an individual receives income assistance
- Adding a grab bar to a tenant's bathroom
- Permitting an applicant to submit a housing application via a different means
- Permitting an assistance animal in a "no pets" building for a person who is deaf, blind, has seizures, or has a mental disability. Additional information about assistance animals is available [here](https://www.hud.gov/program_offices/fair_housing_equal_opp/assistance_animals).

Questions and Answers

Who must comply with these requirements?

The requirement to provide reasonable accommodations and modifications applies to, but is not limited to individuals, corporations, associations and others involved in the provision of housing or residential lending, including property owners, housing managers,

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homeowners and condominium associations, lenders, real estate agents, and brokerage services. This also applies to state and local governments, including in the context of exclusionary zoning or other land-use decisions.

When is a reasonable accommodation or modification necessary?

A requested accommodation or modification may be necessary when there is an identifiable relationship, or nexus, between the requested accommodation or modification and the individual's disability.

What information may a provider seek when a reasonable accommodation or modification is requested?

A provider is entitled to obtain information that is necessary to evaluate if a requested reasonable accommodation or modification may be necessary because of a disability. If a person's disability is obvious, readily apparent, or otherwise known to the provider, and if the need for the requested accommodation or modification is also readily apparent or known, then the provider may not request any additional information. If the disability and/or the disability-related need for the requested accommodation or modification is not known or obvious, the provider may request only information that is necessary to evaluate the disability and/or disability-related need for the accommodation. This information may be from the requesting individual, medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability. In most cases, an individual's medical records or detailed information about the nature of a person's disability is not necessary for this inquiry and may be inappropriate.

When may a housing provider deny a requested accommodation or modification?

A housing provider can deny a request for a reasonable accommodation or modification if the request was not made by or on behalf of a person with a disability or if there is no disability-related need for the accommodation or modification. In addition, a request for a reasonable accommodation or modification may be denied if providing

the accommodation or modification would impose an undue financial and administrative burden on the housing provider or it would fundamentally alter the nature of the housing provider's program. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors. If an undue burden or fundamental alteration exists, the housing provider is still required to provide any other reasonable accommodation up to the point that would not result in an undue financial and administrative burden on the particular housing provider and/or constitute a fundamental alteration of the program.

When a housing provider denies a requested accommodation or modification, the provider should discuss with the requester whether there is an alternative accommodation or modification that would effectively address the requester's disability-related needs without a fundamental alteration to the provider's operations and without imposing an undue financial and administrative burden. As part of this interactive process, the housing provider should recognize that the individual requesting the accommodation or modification is most familiar with his or her disability and is in the best position to determine what type of aid or service will be effective to meet a disability-related need. These discussions often result in an effective accommodation or modification for the requester that does not pose an undue financial and administrative burden for the provider.

What can I do if my housing provider did not acknowledge my request or denied my request, or we could not reach an agreement regarding my request for a reasonable accommodation or reasonable modification?

A provider has an obligation to provide prompt responses to reasonable accommodation requests. An undue delay in responding to a reasonable accommodation request may be deemed to be a failure to provide a reasonable accommodation. A failure to reach an agreement on an accommodation request is in effect a decision by the provider not to grant the requested accommodation. When a person with a disability believes that he or she has been subjected to a

discriminatory housing practice,
including a provider's wrongful denial of
a request for reasonable accommodation,
he or she may file a complaint
(https://www.hud.gov/program_offices/fair_housing_equal_opp/online-complaint) with FHEO. If the individual
who was denied an accommodation files
a complaint with FHEO to challenge that
decision, then HUD (or the state or local
agency receiving the complaint) will
review the evidence in light of applicable
law and assess whether the housing
provider violated that law

Additional Resources

Joint Statement of HUD and DOJ on
Reasonable Accommodations
(<https://www.hud.gov/sites/dfiles/FHEO/documents/huddojstatement.pdf>)

Joint Statement of HUD and DOJ on
Reasonable Modifications
(https://www.hud.gov/sites/dfiles/FHEO/documents/reasonable_modifications_mar08.pdf)

Notice on Service Animals and
Assistance Animals for People with
Disabilities in Housing and HUD-
Funded Programs
(https://www.hud.gov/sites/documents/servanimals_ntcfheo2013-01.pdf)

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STAFF REPORT
CITY OF HOLLY HILL, FLORIDA

Board of Planning and Appeals
Ordinance

6.1

MEETING DATE: May 2, 2022
FROM: Brian Walker
SUBJECT: An Ordinance of the City of Holly Hill, Florida, Approving the Eighth Amendment to Marina Grande Residential Based Mixed Use Planned Unit Development (Mpud) Development Agreement to Add Permitted Uses; Providing for Conflicting Ordinances; Providing for Severability; and Providing an Effective Date.
NUMBER: (ID # 3719)
APPLICANT: Brian Walker
PLANNER:

INTRODUCTION:

Marina Grande Residential Mixed Use Planned Unit Development (MPUD) Major Amendment - Consider a major amendment to the Marina Grande Residential MPUD as amended, to add permitted uses to the retail spaces.

BACKGROUND: On November 23rd, 2004, the City Commission approved the Marina Grande Residential Mixed Use Planned Unit Development (MPUD) Development Agreement, which approved a mixed use planned unit development agreement for the property which has become known as Marina Grande. Over the years the initial MPUD agreement has been amended several times, to address modifications to the plan and address some procedural issues.

Paragraph D titled, Land Uses Within the PUD, states that the street frontage retail not to exceed 16,000 square feet is provided and that the retail spaces shall be designed so as to encourage pedestrian access and capture vehicular trips from within the development. The street retail spaces are shown in Exhibit A.

Over the years, the retail spaces have remained vacant and most are not built out. A large reason why the spaces have remained vacant is because of a lack of parking spaces to accommodate the retail uses.

The current owner feels that expanding the uses beyond just retail uses to include uses with lower parking requirements would help with regard to successfully getting the retail spaces occupied. Therefore, they are requesting to expand the uses to include upscale restaurant, bistro and café uses along with interior private storage. The interior storage space would not change the exterior façade of the current retail spaces and would first be offered to the residents of Marina Grand before being offered or made available to the general public. The applicant proposes up to 90 storage units with most of them being approximately 5X5. A few units would be larger at about 10X10.

Given that there are 486 residential units in the towers, the expectation is that most if not all of the storage units would be rented by residents of Marina Grand. There would be no signage or logo to advertise the personal storage spaces.

Currently there are 9 retail spaces. The applicant proposes to use one of the spaces as an office (existing), along with two spaces for upscale restaurant and bistro/café uses and 6 spaces for interior personal storage, which would have a very low parking requirement.

The applicant has not provided renderings or elevations of what the restaurant, bistro or café spaces will look like. However, the applicant has stated that they will be “upscale” in nature. Synonyms for the word “upscale” include the following: deluxe, high-end, exclusive, top-end, prime, superior, upper-class, classy, ritzy. Prior to permit approval for restaurant, bistro or café development, the applicant will be required to submit renderings of the development to demonstrate to the City that such development will meet the intent of the word “upscale.” If in the judgement of the City, the proposed restaurant, bistro or café does not meet the intent of the word, “upscale,” then the City shall have the right to deny approval of the permit request.

In considering whether or not to approve the applicant’s request, the Commission must consider whether or not the request is consistent with the policies of the City’s comprehensive plan. The comprehensive plan’s Future Land Use Element, under Policy 1.1.2, addresses what can be permitted under the property’s Residential-based mixed use land use. The policy reads in part as follows:

Policy 1.1.2 - Residential-based mixed use - this category is established to encourage better integration of residential use and complementary commercial and other non-residential land uses and to provide property owners with expanded opportunities for redevelopment of blighted and/or underutilized parcels. It provides for the integration of residential, commercial, office, and recreational, uses within a project area. Uses may be mixed vertically in a single building, or horizontally, with uses mixed at ground level throughout the project area on separate legal parcels.

This policy references the city’s land development regulations, but does not specifically mention interior storage units or restaurant uses. The Board of Planning and Appeals and the City Commission is left to its judgment as to whether or not the proposed storage or restaurant uses are consistent with the Residential-based mixed use land use. However, it is staff’s judgement that the proposed uses are consistent with the “*complementary commercial and other non-residential land uses*” portion of the stated land use.

RECOMMENDATION: Staff recommends that the City Commission adopt the Ordinance amending the Marina Grande Residential MPUD (a major amendment), approved on November 23rd, 2004, to allow upscale restaurant, bistro and café uses, along with interior personal storage for the retail spaces only, located at 235 Riverside Drive (Parcel # 5337-34-06-0014).

ATTACHMENTS:

- Exhibit A (PDF)

- PROPOSED - 8th Amendment to PD Proposed Amendment - Written Agreement (PDF)

Ordinance No. (ID # 3719)**AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, APPROVING THE EIGHTH AMENDMENT TO MARINA GRANDE RESIDENTIAL BASED MIXED USE PLANNED UNIT DEVELOPMENT (MPUD) DEVELOPMENT AGREEMENT TO ADD PERMITTED USES; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.****ORDINANCE**

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, APPROVING THE EIGHTH AMENDMENT TO MARINA GRANDE RESIDENTIAL BASED MIXED USE PLANNED UNIT DEVELOPMENT (MPUD) DEVELOPMENT AGREEMENT TO ADD PERMITTED USES; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Holly Hill, Volusia County, Florida, has adopted a comprehensive plan pursuant to, and in compliance with 163.3161 et. Seq., Florida Statutes and;

WHEREAS, the City Commission, as authorized by 163.3202, Florida Statutes, has enacted and does enforce the Land Development Regulations, based on, related to, and as a means to implement its adopted comprehensive plan; and

WHEREAS, the City Commission has determined that it is necessary to administratively amend its Land Development Regulations as herein provided in order to more effectively implement its adopted comprehensive plan.

WHEREAS, the Owner of Marina Grande ground level retail spaces has proposed an Eighth Amendment to the MPUD, to add approved uses;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION

OF THE CITY OF HOLLY HILL, FLORIDA:

SECTION 1. The City Commission of the City of Holly Hill hereby approves the Eighth Amendment to Marina Grande Residential Based Mixed Use Planned Unit Development (MPUD) Development Agreement, a true and correct copy attached hereto.

SECTION 2. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any Court, such portion or application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

SECTION 3. That all ordinances made in conflict with this Ordinance are hereby repealed.

SECTION 4. That this Ordinance shall become effective immediately upon its adoption.

SECTION 5. That this Ordinance shall be posted at City Hall as required by law.

**EIGHTH AMENDMENT TO
MARINA GRANDE RESIDENTIAL BASED MIXED USE
PLANNED UNIT DEVELOPMENT (MPUD)
DEVELOPMENT AGREEMENT**

THIS EIGHTH AMENDMENT TO MARINA GRANDE RESIDENTIAL BASED MIXED USE PLANNED UNIT DEVELOPMENT (MPUD) DEVELOPMENT AGREEMENT (the “Eighth Amendment”) is made this ____ day of _____, 2022, by and between **HALIFAX HOLDINGS LLC**, a Florida limited liability company, (the “Owner”) and the **CITY OF HOLLY HILL**, a Florida municipal corporation (the “City”).

WHEREAS, Holly Hill I Associates, Ltd., a Florida limited partnership (the “Developer”) and City entered into that certain Development Agreement dated November 23, 2004, for the development of certain real property as described in said Agreement, as modified

by that certain First Amendment to Agreement dated October 31, 2005 (the “First Amendment”); as further modified by that certain Second Amendment to Agreement dated November 15, 2005 (the “Second Amendment”); as further modified by that certain Third Amendment to Agreement dated November 14, 2006 (the “Third Amendment”); as further modified by that certain Fourth Amendment to Agreement dated February 13, 2007 (the “Fourth Amendment”); and as further modified by that Fifth Amendment to Agreement dated March 27, 2011 (the “Fifth Amendment”); as further modified by that certain Sixth Amendment to Agreement dated March 28, 2017 (the “Sixth Amendment”) (collectively the “Agreement”) ; as further modified by that certain Seventh Amendment to Agreement dated July 14, 2020 (the “Seventh Amendment”) (collectively the “Agreement”) ; and

WHEREAS, Owners of 235 Riverside Drive (Parcel # 5337-34-06-0014) (retail spaces) and City wish to further modify certain provisions of the Agreement as detailed below;

NOW, THEREFORE, in consideration of the mutual covenants and promises made herein, the parties hereto covenant and agree to bind themselves as follows:

1. The above recitations are true and correct and incorporated herein by reference.
2. Owners and City mutually agree to the following changes to the retail spaces of the Marina Grand PD as amended:
 - a. Upscale restaurant, bistro and café uses as well as interior personal storage are approved as additional permitted uses in the ground level retail spaces as shown in Exhibit A.
3. Prior to permits being issued for restaurant, bistro and café uses, the City shall have to right to review renderings and deny approval if in the City’s judgement, the restaurant, bistro or café will not meet the intent of the word, “upscale.” Words synonymous with upscale are deluxe, high-end, exclusive, top-end, prime, superior, upper-class, classy, ritzy.
4. The parties hereto agree that this Eighth Amendment constitutes a major amendment to the Agreement and that all other provisions, conditions, and requirements of the Agreement, remain in full force and effect.
5. Signatures on copies of this Eighth Amendment which are transmitted by facsimile or by electronic mail are counterparts and shall be deemed originals for all purposes.

EXHIBIT A

Retail spaces at 235 Riverside Drive



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MARINA GRANDE RESIDENTIAL BASED MIXED USE
PLANNED UNIT DEVELOPMENT (MPUD)
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5. Signatures on copies of this Eighth Amendment which are transmitted by facsimile or by electronic mail are counterparts and shall be deemed originals for all purposes.

NOW THEREFORE, the undersigned parties hereby agree to the above terms and conditions of the Eighth Amendment.

CITY OF HOLLY HILL,
a Florida municipal corporation

By: _____
Joseph A. Forte, City Manager

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me, **by means of ☐ physical presence or ☐ online notarization**, this ____ day of _____, 2022, by Joseph A. Forte, City Manager of the City of Holly Hill, on behalf of the City, who is personally known to me or produced _____ as identification.

NOTARY PUBLIC, STATE OF FLORIDA

Notary Signature

Printed Name

Commission No.: _____
My Commission Expires: _____

WITNESSES:

(Name Printed or Typed)

(Name Printed or Typed)

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me, **by means of ☐ physical presence or ☐ online notarization**, this ____ day of _____, 2022, by _____, as _____ of Halifax Holdings, LLC, on behalf of the limited liability company, who is personally known to me or produced _____ as identification.

HALIFAX HOLDINGS, LLC
A Florida limited liability company

By: _____

Name: _____

Title: _____

NOTARY PUBLIC, STATE OF FLORIDA

Notary Signature

Printed Name

Commission No.: _____

My Commission Expires: _____

WITNESSES:

(Name Printed or Typed)

(Name Printed or Typed)

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me, **by means of ☐ physical presence or ☐ online notarization**, this ____ day of _____, 2022, by _____, as _____ of Halifax Holdings, LLC, on behalf of the limited liability company, who is personally known to me or produced _____ as identification.

HALIFAX HOLDINGS, LLC
A Florida limited liability company

By: _____

Name: _____

Title: _____

NOTARY PUBLIC, STATE OF _____

Notary Signature

Printed Name

Commission No.: _____

My Commission Expires: _____