

REQUEST FOR REASONABLE MODIFICATION



City of Sierra Vista
1011 N. Coronado Drive
Sierra Vista, Arizona 85635

Information: (520) 458-3315
Fax No.: (520) 452-7023

It is the City's policy to provide individuals with disabilities, reasonable modifications in regulations and procedures to ensure equal access to housing and to facilitate the development of housing. The intent of this application is to provide a procedure under which a disabled person may request a reasonable modification to a structure's dimensional standards or to the lot coverage areas to accommodate their disability.

The Department of Community Development does not investigate or enforce any of the following restriction: Deed restrictions or Codes, Covenants & Restrictions (CC&R's) limiting the use of your property; any restrictions generally enforced by local property owners or **homeowners'** associations; OR any permits required by state and federal agencies, over and above our regulations. The Department of Community Development does not assume any responsibility to ensure that the proper permits have been obtained.

Date: _____

Applicant Name: _____

Address: _____

Parcel Number: _____

Telephone Number: _____

Agent Name: _____

Telephone No: _____

Address: _____

Email Address: _____

Please check the applicable request(s) below:

CHECK THE MODIFICATION REQUEST YOU WISH TO APPLY FOR:

_____ Reduce Setbacks _____ Increase Building Height _____ Increase Lot Coverage Area

Current Requirement (provide the current dimension): _____

Requested Modification (provide proposed dimension): _____

Type of Structure to be modified (main home, detached garage, accessory dwelling unit): _____

PLEASE ATTACH ALL OF THE FOLLOWING INFORMATION TO THIS APPLICATION: (The City may require additional information after the initial submittal)

_____ Letter of Intent – A letter describing the proposed modification, the reason why the modification is necessary, any alternatives considered prior to the modification request, and an explanation as to how the modification complies with Article 151.06.011). Please include the specific Development Code regulation from which the reasonable modification is being requested. (Please refer to the attached code)

_____ Sketch Plan showing ALL the following information (if applicable):
1) Parcel boundaries and dimensions; 2) Exact location and size of all proposed and existing structures; 3) Height of current and proposed buildings;
4) Points of ingress and egress; 5) Adjacent alley / street locations; 6) Building setbacks; and 7) Parking areas.

_____ Verification of the disability. For example: Statements or letters on physician's/medical professional's letterhead, Statements or letters from the Federal Government agency that issues or provides disability benefits, Statements or letters from a State Vocational Rehabilitation Agency counselor, or Certification from a private Vocational Rehabilitation or other Counselor that issues or provides disability benefits. **THIS DOES NOT MEAN YOU MUST TELL US THE SPECIFICS OF YOUR DISABILITY, JUST THAT YOU HAVE ONE.**

_____ Written certification from a doctor indicating that an accommodation is necessary due to the disability.

_____ Proof of Ownership (If the applicant is not the property owner, a letter appointing an agent should be included with this application)

If there is any additional relevant information deemed necessary for the project, such as pictures, house plans, background info, etc., please submit with the rest of the requested supplemental documents.

I CERTIFY THAT THE ABOVE STATEMENTS AND ANSWERS ARE TRUE AND COMPLETE.

Signature

Date

ARTICLE 151.02
DEFINITIONS

Section 151.02.004
Definitions

Americans with Disabilities Act: 42 U.S.C. Subsection 1281 et. seq. Pub. L 101-336 and implementing regulations at 28 C.F.R. parts 35 and 36.

Disabled Person. A person who has a physical or mental impairment, or both, that substantially limits one or more major life activities, including caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working.

Fair Housing Laws- means (1) the Federal Fair Housing Act ([42 U.S.C. § 3601](#)) and (2) A.R.S. Title 41, Chapter 9, Article 7

Reasonable Modification- means providing disabled persons flexibility in the application of a structure's dimensional standards and lot coverage area requirements and procedures, when necessary to eliminate barriers to housing opportunities. It includes such things as reduced building setbacks, building height that exceeds the maximum requirements, or increasing the lot coverage areas. Reasonable accommodation does not include an accommodation which would (1) impose an undue financial or administrative burden on the city or (2) require a fundamental alteration in the nature of the city's land use patterns and zoning codes.

ARTICLE 151.06 SPECIAL REGULATIONS FOR PARTICULAR USES

Section 151.06.011 Reasonable Modification

A. Intent

1. It is the City's policy to provide individuals with disabilities reasonable modifications in regulations and procedures to ensure equal access to housing, and to facilitate the development of housing. The intent of this Section is to provide a procedure under which a disabled person may request a reasonable modification in the application of a structure's dimensional standards or to the lot coverage areas.

2. This Section is based on requirements of the federal and state fair housing laws and is distinct from the requirements for a variance set forth in Article 151.30.

B. Requesting reasonable modification.

1. Request. A disabled individual may request a reasonable modification to a structure's dimensional standards or to the lot coverage area. A reasonable modification cannot waive a requirement for a conditional use permit when otherwise required or result in approval of uses otherwise prohibited by the City's land use and zoning regulations.

2. Availability of information. Information regarding this reasonable modification procedure will be available at City Hall and on the City websites, and be made available in any other manner as determined by the City.

3. Assistance. The City will provide reasonable assistance to any applicant making a request.

4. Balancing rights and requirements. The City will attempt to balance (1) the privacy rights and reasonable request of an applicant for confidentiality, with (2) the land use requirements for notice, factual findings and rights to appeal, in the city's requests for information, considering an application, preparing written findings and maintaining records for a request for reasonable modification.

C. Application requirements.

1. Application. The applicant shall submit a request for reasonable accommodation on a form provided by the City. The application shall include the following information:

- a. The current actual use of the property;

b. The basis for the claim that the individual is considered disabled as defined in this Code and in the fair housing laws as well as current, written certification of need for the requested accommodation from a medical doctor;

c. The rule, policy, practice and/or procedure of the city for which the request for modification is being made, including the Development Code regulation from which reasonable modification is being requested;

d. The type of accommodation sought;

e. The reason(s) why the modification is reasonable and necessary for the needs of the disabled person(s). Where appropriate, include a summary of any potential means and alternatives considered in evaluating the need for the modification;

f. Copies of memoranda, correspondence, pictures, plans or background information reasonably necessary to reach a decision regarding the need for the accommodation; and

g. Other supportive information deemed necessary by the City to facilitate proper consideration of the request, consistent with fair housing laws.

2. Review with other land use applications. If the project for which the reasonable accommodation is being requested also requires some other discretionary approval (such as conditional use permit, architectural review, general plan amendment, zoning amendment, subdivision plat), then the applicant shall submit the reasonable modification application first for a determination, before proceeding with the other applications.

3. Fee. The fee for an application for reasonable accommodation shall be established by resolution of the city council.

D. Approval authority – Notice – Decision.

1. Approval authority.

The Director of Community Development (Director) has the authority to review and decide upon requests for reasonable modifications, including whether the applicant is a disabled individual as defined in this Code.

2. Notice. The City shall notify, by mail, abutting property owner(s) most affected by the reasonable accommodation. The notice shall include a sketch plan of the site illustrating the modification and contact information for providing any comments on the application.

3. Decision. The Director shall render a decision within 30 days after the application is complete, and shall approve, approve with conditions or deny the application, based on the findings set forth in Section E. The decision shall be in writing and mailed to the applicant.

If the application for reasonable modification involves another discretionary decision, the reviewing body for that decision shall accept as final the determination regarding reasonable modification by the Director.

E. Findings – Other requirements.

1. Findings. The reviewing authority shall approve the application, with or without conditions, if it can make the following findings:

- a. The housing will be used by a disabled person;
- b. The requested modification is necessary to make specific housing available to a disabled person;
- c. The requested modification would not impose an undue financial or administrative burden on the City; and
- d. The requested modification would not require a fundamental alteration in the City's land use and zoning regulations.

2. Other requirements.

a. An approved request for reasonable modification is subject to the applicant's compliance with all other applicable zoning regulations.

b. Where appropriate, the reviewing authority may condition its approval on any or all of the following:

- (1) Measures to reduce the impact on surrounding uses;
- (2) Measures in consideration of the physical attributes of the property and structures;
- (3) Other reasonable accommodations that may provide an equivalent level of benefit; and
- (4) Other conditions necessary to protect the public health, safety and welfare.

F. Appeal.

A decision by the Director may be appealed by any aggrieved person to the Hearing Officer in accordance with the appeal procedures of Article 151.30.