

CITY OF PETAL  
ORDINANCE BOOK 4

ORDINANCE NUMBER 1979 (42-A394)  
Reasonable Accommodation Policy

**AN ORDINANCE OF THE CITY OF PETAL CHANGING AND AMENDING THE  
COMPREHENSIVE ZONING ORDINANCE NO. 1979 (42) OF THE CITY OF PETAL,  
MISSISSIPPI, AS AMENDED BY ORDINANCE NUMBERS 1979 (42-1) THROUGH 1979  
(42-A393) SO AS TO CHANGE AND AMEND CERTAIN SECTIONS OF THE OFFICIAL  
ZONING ORDINANCE TO PROVIDE FOR REASONABLE ACCOMMODATION OR  
MODIFICATION**

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF  
PETAL, MISSISSIPPI:

SECTION 1: The following articles of Ordinance 1979 (42) be amended as follows:

ARTICLE XI. PLANNING COMMISSION

11.66 Requests for Reasonable Accommodation or Modification.

A person/s with a disability or a person or housing or services provider acting on behalf of an individual/s with a disability (“Applicant”) may request a reasonable accommodation or modification relating to the zoning ordinance. A request for reasonable accommodation or modification (“Request”) may include a modification or exception to the policies, services, rules, standards and practices for the siting, development, and use of housing or housing-related facilities. It is the City’s policy to eliminate regulatory barriers and to provide persons with disabilities equal opportunities to use and enjoy specific dwellings of their choice within the City.

A person with a disability is a person who has a physical or mental impairment that limits one or more major life activities, anyone who is regarded as having this type of impairment, or anyone who has a record of this type of impairment. A person recovering from substance abuse is considered a person with a disability under 42 U.S.C. § 3602(h).

The Applicant shall address a Request to the Building Department Director (“Director”) or to another Building Department staff member, zoning official, or law enforcement officer who has communicated with the Applicant regarding his or her zoning matter. The Applicant may make this Request orally or in writing. If requested by the Applicant, or if it is apparent to a City employee or staff that assistance is needed, the Director shall, in a timely manner, assist in obtaining information required by the City in filling out an application. The application shall be made by filling out a form, which the Director shall provide.

The form shall indicate or include:

- A. the current zoning for the property;
- B. the name of the owner of the fee interest of the property (if other than the Applicant);
- C. the reasons why the Applicant requests the accommodation or modification to use and enjoy the housing. In the event that the specific individuals who are expected to reside at the property are not known to a provider in advance of making the application, the provider shall state the reasons why the accommodation or modification is needed;
- D. the specific type of accommodation or modification requested by the Applicant;
- E. a notice to Applicants providing that, should the information provided by the Applicant include medical information or records of the proposed resident(s), including records indicating the identity, medical condition, diagnosis or medical history of the proposed resident(s), the medical information shall be treated as confidential, to the extent allowed by law, and shall not be available for public inspection unless the persons with disabilities who are the subject(s) of the information or their legal representatives specify in writing otherwise; and
- F. any other information the Applicant believes would assist in determining the reasonableness of the accommodation or modification requested.

While an application for reasonable accommodation or modification or appeal of a denial of the Application is pending before the City, the City will not enforce the subject zoning ordinance against the Applicant or the person(s) on whose behalf he or she applied.

The City shall acknowledge all requests for reasonable accommodation or modification, in writing, within seven (7) days of the City's receipt of an oral or written request. The Director is empowered to approve reasonable accommodation requests, based on the Applicants' completion of the form specified above. The Director shall approve or otherwise decide on Requests within fourteen (14) days of completion of each application. If the Director does not approve a request, he shall, within fourteen (14) days of completion of the application, make a written recommendation to the Planning Commission specifying the reasons why the request should be modified or denied. Upon receipt of the Director's recommendation, the Planning Commission shall conduct a hearing on the request. Said hearing shall comply with public hearing conditions as stated in the Comprehensive Zoning Law.

The Applicant need provide only the information necessary for the City to evaluate the reasonable accommodation or modification request. 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. To protect the confidentiality of any medical information provided by the Applicant or contained in the application, the Planning Commission shall, to the extent allowed by law, enter into executive session to review and discuss said medical information. The non-confidential portion of the hearing shall be conducted in public. The Planning Commission shall issue a written decision specifying its grounds for granting, denying or modifying the application. After such hearing, the Planning Commission shall make its recommendation to the Mayor and Board of Aldermen, which recommendation may be accepted or rejected by the Board, or may be accepted in part and rejected in part or may be sent back to the Planning Commission for further

hearing. The City shall provide written notice to the Applicant, and any person designated by the Applicant to represent the Applicant in the application proceeding, of any request received by the City for disclosure of the medical information or documentation which the Applicant has previously submitted to the City.

The City will cooperate with the Applicant, to the extent allowed by law, in actions initiated by the Applicant to oppose the disclosure of such medical information or documentation.

The City shall provide written notification to those requesting a reasonable accommodation or modification of the decision regarding their request for accommodation or modification within thirty (30) days of the receipt of the request. If the City denies a request, it shall include an explanation of the basis for such denial in this written notification. A Request may not be denied for reasons that violate the Fair Housing Act or the Americans with Disabilities Act.

In the event that the Director or the Planning Commission does not issue a decision as required by the time frames specified herein and in other pertinent sections of the Ordinance, the application shall be decided upon by the Mayor and Board of Aldermen.

Upon approval of the application, whether modified or not, the Applicant shall be entitled to undertake said reasonable accommodation or modification, and shall be entitled to any attendant licensure by the city that is outlined in the application as approved by the Mayor and Board of Aldermen. If a business license is required as part of the reasonable accommodation or modification, the business license official shall issue said license upon approval of the accommodation or modification.

The accommodation or modification shall be in force and effect as long as the Applicant owns and/or resides in said structure. Said reasonable accommodation or modification shall be limited to the number of people availing themselves of the reasonable accommodation or modification as approved by the Mayor and Board of Aldermen.

Nothing in this Chapter requires persons with disabilities or operators of supported housing for persons with disabilities acting or operating in accordance with applicable zoning, licensing or land use laws or practices to seek reasonable accommodation or modification under this Chapter.

A request for a reasonable accommodation submitted by or on behalf of residents of a group home shall not be denied solely because the group home is sited in a residential zone and is established, maintained, or supported as a for-profit or entity.

The City shall prominently display a notice at the counter in the City building Department advising those with disabilities or their representatives that they may request a reasonable accommodation or modification in accordance with the procedures established in this Chapter. A copy of the notice shall be available upon request.

The City shall maintain records of all oral and written requests for reasonable accommodation or modification, the City's responses thereto, and all hearings transcripts, correspondence, and all other related records.

The City shall not impose any fees or costs, or otherwise retaliate against any person who has exercised his or her right under the Fair Housing Act or the Americans with Disabilities Act to make one or more reasonable accommodation or modification requests.

Nothing in this section will require the city to expend any funds to achieve a reasonable accommodation or modification except and to the extent required by federal law.

#### ARTICLE XIV. LEGAL STATUS PROVISIONS.

##### 14.30. Construction, Application and Enforcement Consistent With Federal Law

The provisions of this Ordinance shall in every instance be construed, applied and enforced in a manner consistent with applicable federal law, including, but not limited to, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (the Fair Housing Act), 42 U.S.C. §§ 3601-3619; and Title II of the Americans with Disabilities Act (the ADA), 42 U.S.C. §§ 12131-12134. Notwithstanding any other provision of this Ordinance to the contrary, the Director, Planning Commission Members, and other City officials with zoning-related responsibilities shall make reasonable accommodation or modifications in the rules, policies, and practices of their offices so that handicapped or disabled persons or a provider of housing for a handicapped or disabled persons are not discriminated against and are afforded an equal opportunity to use and enjoy the dwellings.

Renumeration:

##### 14.40 Repeal of Conflicting Ordinance

##### 14.50 Effective Date of Ordinance

SECTION 2. Except as hereby expressly changed and amended, the aforesaid Comprehensive Zoning Ordinance No. 1979 (42) of the City of Petal, Mississippi, shall be and remain in full force.

SECTION 3. That this Ordinance shall take effect and be in full force within thirty (30) days from and after its passage as provided by law. The foregoing Ordinance having been reduced to writing, the same was introduced and read, and a vote was taken thereon, first section by section and then upon the Ordinance as a whole with the following results:

Those present and voting “AYE” and in favor of the passage, adoption and approval of the foregoing Ordinance:

Alderman Brad Amacker  
Alderman Craig Bullock  
Alderman David Clayton  
Alderman Tony Ducker  
Alderman William King  
Alderman Clint Moore  
Alderman Steve Stringer

Those present and voting “NAY” or against the adoption of the foregoing Ordinance as a whole:

NONE

Those present and voting “AYE” and in favor of the passage, adoption and approval of the foregoing Ordinance:

Alderman Brad Amacker  
Alderman Craig Bullock  
Alderman David Clayton  
Alderman Tony Ducker  
Alderman William King  
Alderman Clint Moore  
Alderman Steve Stringer

Those present and voting “NAY” or against the adoption of the foregoing Ordinance as a whole:

NONE

WHEREUPON, the foregoing Ordinance be, and the same is hereby passed, adopted and approved on this the 7<sup>th</sup> day of July, 2015.

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HAL MARX, MAYOR

(SEAL)

ATTEST:

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MELISSA MARTIN, CITY CLERK

PUBLISH 1 TIME: July 16, 2015.

