

**SAMPLE POLICY:
REASONABLE
ACCOMMODATIONS
FOR PEOPLE WITH
DISABILITIES**



Prepared by:



**FAIR HOUSING AGENCIES OF
WASHINGTON STATE**

Sample Reasonable Accommodations Policy

This is a sample policy you can use, in whole or in part, to establish fair and consistent practices when working with people with disabilities. The policy contains useful information to educate staff, handle requests from disabled applicants and tenants, and sample letters that you can provide to tenants who want to request a reasonable accommodation or modification.



The fair housing agencies of Washington State would like to partner with you in affirmatively furthering your fair housing efforts by providing sample policies for your use. These policies are also available on the web at <http://www.metrokc.gov/dias/ocre/> or <http://www.cityofseattle.net/civil/documents.htm>. Please feel free to contact your local fair housing agency for technical assistance. If you have comments about this sample policy, please contact the King County Office of Civil Rights, 206-296-7592, TTY 296-7596, e-mail: civil-rights.ocr@metrokc.gov.

FAIR HOUSING AGENCIES OF WASHINGTON STATE

**Washington State Human Rights Commission
King County Office of Civil Rights
Seattle Office for Civil Rights
Tacoma Human Rights and Human Services Department
Fair Housing Center of South Puget Sound
Northwest Fair Housing Alliance**

REASONABLE ACCOMMODATIONS POLICY

BACKGROUND

WHAT DO DISABILITY ACCESS LAWS REQUIRE?

Fair Housing Act: The federal Fair Housing Act and local fair housing laws prohibit housing providers from discriminating against people because of their disability or the disability of anyone associated with them, and from treating disabled people less favorably than others because of their disabilities. These laws also require housing providers "to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person(s) equal opportunity to use and enjoy a dwelling." In addition, these laws require that housing providers allow tenants to make reasonable modifications to units and common spaces in a dwelling. For more information, see these web pages:

- www.hud.gov/offices/fheo/FHLaws/yourrights.cfm
- www.hud.gov/offices/fheo/FHLaws/index.cfm
- www.metrokc.gov/dias/ocre/FHlaws.htm

Section 504 of the Rehabilitation Act of 1973: Section 504 prohibits discrimination based on disability in any program or activity receiving federal financial assistance. For more information, see these web pages:

- www.hud.gov/offices/fheo/disabilities/sect504faq.cfm
- www.hud.gov/offices/fheo/disabilities/sect504docs.cfm

Americans with Disabilities Act: In most cases, the ADA does not apply to residential housing. Title III of the ADA covers public and common use areas at housing developments when these areas are open to the general public (such as a rental office) or when they are available for use by the general public (such as a community room that you rent to non-tenants). Title II of the ADA prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities. HUD enforces Title II when it relates to state and local public housing, housing authorities, housing assistance and housing referrals. For more information, see this web page: www.usdoj.gov/crt/ada/publicat.htm.

WHO IS DISABLED?

Under most federal laws, a person is considered to be disabled if s/he has a sensory, mental or physical condition that substantially limits one or more major life activities (such as walking, seeing, working, etc.). Under Washington state law, a disability is a sensory, mental or physical condition that is medically cognizable or diagnosable – this is a broader definition that includes more individuals, such as some people with temporary disabilities. Keep in mind that people with psychiatric disabilities may require housing accommodations too.

WHAT IS A REASONABLE ACCOMMODATION?

People with disabilities may have special needs due to their disabilities, so in some cases, simply treating them the same as others may not ensure that they have an equal opportunity to use and enjoy a dwelling. A "reasonable accommodation" is a change, adaptation or modification to a policy, program or service, which will allow a person with a disability to use and enjoy a dwelling, including public and common use spaces. Examples of reasonable accommodations include providing rental materials in alternate formats such as large print, providing a reserved accessible parking space near a tenant's apartment, or allowing a tenant to have a service animal in a "no pets" building (see appendix for a list of common accommodations).

Disability access laws require that in making an accommodation, a housing provider will bear costs that do not amount to an undue financial and administrative burden. This means that a housing provider may be required to spend money to provide legally required reasonable accommodations, most of which are no or low cost.

WHAT IS A REASONABLE MODIFICATION?

A "reasonable modification" is a physical change made to a tenant's living space which is necessary to afford the disabled tenant full enjoyment of their dwelling. Modifications are usually made at the tenant's expense, except in the case of federally funded housing.

- **Quality of work:** A housing provider may condition permission for a modification on the renter providing a reasonable description of the proposed modifications as well as reasonable assurances that the work will be done in a professional manner and that any required building permits will be obtained.
- **Restoration:** Where it is reasonable to do so, a rental housing provider may condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted. When the tenant moves out, the housing provider should not require restoration of the interior to its previous condition when the modifications that were made would not interfere with the next tenant's use and enjoyment of the premises. The housing provider may not require an increased security deposit; however, the provider may negotiate an agreement that the tenant pay into an interest-bearing escrow account, over a reasonable period, an amount of money not to exceed the cost of the restorations. The interest in any such account shall accrue to the benefit of the tenant.

Reasonable modification examples: allowing a wheelchair-using tenant to widen an interior doorway (no need to make doorway narrow again at move-out time) or to install bathroom grab bars with proper wall reinforcement (bars can be removed at move-out, but the hidden wall reinforcement must remain).

WHEN IS AN ACCOMMODATION OR MODIFICATION REASONABLE?

The reasonableness of a particular accommodation/modification depends on a variety of factors and must be decided on a case-by-case basis. The determination of whether a request is reasonable depends on the following:

- The requested accommodation or modification must be for a person who has a disability. Housing providers are not entitled to specific information about the disability, medical records, etc., but they may request a letter confirming that the tenant actually has a disability.
- The requested accommodation or modification must be necessary. There must be an identifiable relationship between the individual's disability and the requested accommodation or modification.
- The request must not impose an undue financial and administrative burden on the housing provider. Note that "undue burden" usually takes into consideration the housing provider's entire resources.
- The requested accommodation or modification must not require the housing provider to make a fundamental alteration in the nature of the provider's operations.

Note that where a particular requested accommodation or modification is not reasonable, the housing provider is still obligated to provide other requested accommodations or modifications that do qualify as reasonable.

WHEN SHOULD ACCOMMODATION/MODIFICATION REQUESTS BE MADE?

An individual with a disability can request an accommodation or modification whenever they are needed. For example, requests may be made when an individual is applying for housing, entering into a rental agreement, while occupying housing, and even during an eviction process. Individuals who become disabled during their tenancy may request accommodations, even if they were not disabled when they moved in.

HOW SHOULD REQUESTS FOR ACCOMMODATIONS/MODIFICATIONS BE MADE?

Disability access laws do not prescribe a uniform procedure for requesting a reasonable accommodation or modification to be used with all housing providers. To make a request, an individual does not need to mention disability access laws or use the phrase "reasonable accommodation." In general, a tenant or applicant should make clear to the housing provider that s/he is requesting that an exception, change, adjustment, or modification be made to a rule, policy, practice, service, building or dwelling unit because s/he has a disability. The tenant request should describe what type of accommodation is needed and explain the relationship between the requested accommodation and the disability. Although not required by access laws, it is helpful if these requests are made in writing, so there will be documentation of the request.

It is advisable for a housing provider to establish an accommodation/modification process. Keep in mind that a tenant cannot be required to use a specific form for such requests, and a housing provider cannot refuse to provide an accommodation or modification just because the tenant has not used the provider's form.

MUST AN ACCOMMODATION BE PROVIDED IF THERE'S BEEN NO REQUEST?

No. A housing provider is only obligated to provide an accommodation if a tenant has made a request. However, housing providers can advise all applicants and tenants of their willingness to provide accommodations by noting on application forms, rental agreements, and rules or regulations that "reasonable accommodations will be provided upon request."

MUST EVERY RULE AND PROCEDURE BE CHANGED AT A DISABLED TENANT'S REQUEST?

No. Although housing providers are expected to accommodate "reasonable" requests, they need not undertake changes that would seriously impair their ability to run their business. For example, if a tenant with a disability cannot do his own housekeeping and the housing provider does not supply housekeeping for tenants, a request for such services would not be reasonable. If an applicant who uses crutches prefers a third-story apartment to a ground floor unit in a 1926-built walk-up building, the housing provider does not have to install an elevator because such a modification may be unreasonable or cost prohibitive.

CAN A HOUSING PROVIDER INSIST ON AN ALTERNATIVE TO A REQUESTED ACCOMMODATION?

The housing provider should give primary consideration to the accommodation requested by the tenant or applicant, because the individual with a disability 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. If the housing provider believes the requested accommodation is unreasonable, s/he may, but is not required to, propose a substitute accommodation. If the housing provider suggests an alternative accommodation, the tenant may reject it if it does not meet his or her needs.

WHAT HAPPENS IF A HOUSING PROVIDER FAILS TO ACT ON A REQUEST FOR AN ACCOMMODATION?

If a housing provider delays responding to a request for an accommodation, after a reasonable amount of time that delay may be construed as a failure to provide a reasonable accommodation. A tenant or applicant may then choose to seek legal assistance or to file a complaint with a fair housing agency.

A SPECIAL NOTE ABOUT ACCESSIBLE PARKING

If you provide parking for tenants, it is a reasonable accommodation to provide a reserved accessible parking space when a disabled tenant requests it. Here are basic guidelines:

- Many tenants who need an accessible parking space don't need an extra-wide space with an access aisle – they may only need a regular-size parking space nearest to their front door (or on the most accessible route to the front door). Discuss with the tenant his/her needs for parking.
- Even if you don't usually assign particular parking spaces to specific tenants or units, provide the disabled tenant with a reserved parking space. Be sure to post signs saying the spot is reserved and enforced. Provide the reserved space in addition to any other general accessible parking you may provide for guests.
- If you have parking for guests, the guest parking is likely subject to ADA Title III rules, which require at least 2% of all guest spaces in any lot meet access requirements and be designated with appropriate signage. These spaces must be at least 96" wide and must have an adjacent access aisle at least 60" wide, which allows room for a wheelchair, electric scooter, or other mobility device. An access aisle can be shared between two accessible parking spaces. At least one of the guest spaces must be van accessible; van parking spaces need a 96" access aisle.
- If the rental office is on-site, be sure to locate at least one accessible guest parking space next to the office.
- Your standard accommodations policy can be used for accessible parking requests. If a tenant has a state disabled parking permit, this is generally sufficient proof of need for a reserved accessible parking space.

A SPECIAL NOTE ABOUT SERVICE ANIMALS

It is a reasonable accommodation for housing providers to allow tenants with disabilities to live with a service animal in order to meet their disability-related needs. A service animal usually is defined as "any animal that is individually trained to do work or perform tasks for the benefit of a person with a disability." Fair housing laws consider "companion" animals to be a type of service animal.

- Dogs are the most common service animals, but other species are used (for example, cats or birds). Service animals may be any breed, size or weight.
- There is no legal requirement for service animals to be visibly identified (no special collar or harness needed) or to have documentation (no license, certification or identification papers needed).
- Service animals are not considered to be pets. A person with a disability uses a service animal as an auxiliary aid -- similar to the use of a cane, crutches or wheelchair. For this reason, fair housing laws require that housing providers permit the use of a service animal by an individual with a disability despite "no pet" rules. Pet deposits or fees cannot be charged for service animals.

For more detailed information, see the Sample Policy on Service Animals available from the Fair Housing Agencies of Washington State.

REASONABLE ACCOMMODATION AND REASONABLE MODIFICATION POLICY

GUIDELINES FOR STAFF

POLICY

It is the policy of **[insert name of company here]** to provide reasonable accommodations and to permit tenants with disabilities to make reasonable modifications upon request, with provision of appropriate documentation of the need for the accommodation or modification.

PROCEDURE

The fair housing laws require that the housing provider and the tenant enter into a dialogue about the tenant's disability needs to reach a mutually acceptable reasonable accommodation. Only after such a dialogue and thorough exploration of access options should a housing provider consider denying the request or claiming undue burden.

Property management must review all requests for reasonable accommodations or modifications. In some cases, the need for an accommodation will be obvious, so no documentation may be needed (as when a low vision tenant asks for the tenancy rules in large print). When the need is not obvious or where the accommodation entails more than minimal cost or staff time, you can request the tenant to provide written verification from the tenant's healthcare or mental health provider that the tenant has a disability and needs the accommodation or modification (the provider need not be an M.D.). You can require proof that the tenant is disabled, but cannot require the tenant to provide specific information about the disability.

If you are unsure how to provide a requested accommodation, the tenant may be aware of resources with which you are unfamiliar (for example, where to get written material put into Braille, sources for access signs, etc.).

If you attempt to honor the request and find that it is very difficult, time-consuming or expensive, let the tenant know and suggest any easier, quicker or less expensive alternate accommodations that you think may work. Offer the tenant an opportunity to make a modified request. If you and the tenant disagree about whether the request is reasonable, discuss this with upper management before denying the request.

If you determine that you cannot fulfill the request because it poses an undue financial and administrative burden or because it would cause a fundamental alteration in the housing program, discuss this with upper management before denying the request. You may contact a fair housing agency in your area for technical assistance – they are a good information source for accommodation ideas, funding resources, etc.

REASONABLE ACCOMMODATIONS

Promptly review all requests a disabled tenant makes for reasonable accommodations or modifications. Provide accommodations immediately or within a reasonable time. The property manager will provide a written response notifying the tenant of whether the requested accommodation will be provided and how (see sample letter).

REASONABLE MODIFICATIONS

Tenants will be permitted to make modifications when the tenant –

- fully describes the intended modification(s),
- provides assurance that required building permits will be obtained,
- provides assurance that the modifications will be done in a professional manner,
- agrees to return the premises to their original state, unless the modification will not interfere with the next tenant's use and enjoyment of the premises,
- (in some cases) agrees to pay into an interest-bearing escrow account, over a reasonable period, a reasonable amount of money not to exceed the cost of the restorations.

Provide permission to perform modifications as soon as practicable. The property manager will provide a written response notifying the tenant whether you will allow the requested modification (see sample letter).

RESOURCES/QUESTIONS

If you have any questions regarding your rights and responsibilities under the fair housing laws, contact a fair housing agency in your area listed on the attached sheet.

Note that if your housing is federally funded, you are likely responsible for the costs of reasonable modifications. Make appropriate changes to these staff guidelines to reflect that responsibility.

This information does not constitute legal advice. The fair housing laws are subject to change. If you have questions about this topic or other fair housing issues, feel free to contact one of the listed agencies.

**AVAILABLE IN ALTERNATE FORMATS UPON REQUEST FROM
KING COUNTY OFFICE OF CIVIL RIGHTS, 206-296-7592, 296-7596 TTY.**

SAMPLE LETTERS FOR HOUSING PROVIDERS

REASONABLE ACCOMMODATION RESPONSE #1

Dear (tenant):

We have received your request for a reasonable accommodation, specifically, _____ . Please provide us with a letter from your service provider confirming your disability status and need for the accommodation. Once we receive the above letter, we will give prompt consideration to your request.

Sincerely,
Danny Thomas
Building Manager

REASONABLE ACCOMMODATION RESPONSE #2

Dear (tenant):

We have received your request for a reasonable accommodation, specifically, _____ , together with your healthcare provider's letter documenting your disability and need for the accommodation. We will provide the requested accommodation as follows: _____

Sincerely,
Danny Thomas
Building Manager

REASONABLE ACCOMMODATION RESPONSE #3

Dear (tenant):

We have received your request for a reasonable accommodation, specifically, a reserved accessible parking space, together with your healthcare provider's letter. Your request is granted and we will begin the process of designating a parking space for your use immediately. Please contact me as soon as possible so that we may discuss which parking location(s) will best meet your needs.

Sincerely,
Danny Thomas
Building Manager

REASONABLE ACCOMMODATION RESPONSE #4

Dear (tenant):

We have received your request for a reasonable accommodation. We are unclear about your specific needs and would like to meet with you to discuss the accommodation request. Please contact me as soon as possible so that we may discuss what will best meet your needs.

Sincerely,
Danny Thomas
Building Manager

REASONABLE MODIFICATION RESPONSE

Dear (tenant):

We have received your request for a reasonable modification, specifically, to be allowed to install grab bars in the bathroom of your unit. We have spoken to Joe Johnson at Able Carpenter Company, who has assured us that the project will be done in a professional manner to building code.

Your request to make this modification is granted. Please let me know when the carpentry work begins and ends.

When you vacate your unit, we request that you remove the grab bars around the toilet, but you may leave the grab bars in the bathtub area.

Sincerely,
Danny Thomas
Building Manager

DENIAL OF REQUEST FOR REASONABLE ACCOMMODATION

Dear (tenant):

We have received your request for an accommodation for your disability, specifically, that we provide housekeeping services inside your unit. We have given your request reasonable consideration and have decided to deny this request.

As you may be aware, the management of the Evergreen Apartments provides general maintenance and cleaning of the common areas of the complex, and appliance repairs for tenants upon request. However, we do not provide housekeeping services for tenant units in general.

Management believes that the request to provide personal housekeeping services for a tenant would result in a fundamental alteration of our housing services. Under fair housing laws, we are not required to grant such requests, which are not considered reasonable.

If you have a need for reasonable accommodations, please contact us any time with a request.

Sincerely,

Danny Thomas
Building Manager

REASONABLE ACCOMMODATION AND REASONABLE MODIFICATION POLICY

GUIDELINES FOR TENANTS WITH DISABILITIES

MAKING A REQUEST

If you or a member of your household needs a reasonable accommodation or modification, submit a request to the housing manager. You are not required to disclose the nature of the disability. Although you can make verbal requests, it is recommended that you make requests in writing, so you both have a record of the request.

If you are making a reasonable accommodation request to management, fully describe the required accommodation. If you know of resources that will make it easier or quicker for management to grant your request, include this information along with your request (for example, you may know of an inexpensive place to get written material put into Braille, or a good source for access signs).

If you are requesting permission to make a modification to the premises at your expense, be sure to provide the following with your request:

- fully describe the intended modification(s),
- provide assurance that required building permits will be obtained,
- provide assurance that the modifications will be done in a professional manner,
- agree to return the premises to their original state, unless the modification will not interfere with the next tenant's use and enjoyment of the premises,
- (in some cases) agree to pay into an interest-bearing escrow account, over a reasonable period, an amount of money not to exceed the cost of the restorations.

VERIFICATION AND DOCUMENTATION:

The housing manager may require that you provide written verification that the requesting tenant has a disability and that the accommodation/modification is necessary to give that tenant equal opportunity to use and enjoy the housing community. You should ask your healthcare or mental health provider to send a signed letter on professional letterhead to the housing manager answering the following questions:

- Is the tenant disabled as defined by the fair housing laws?
- In their professional opinion, does the tenant need the requested accommodation or modification in order to have the same opportunity as a non-disabled person to use and enjoy the housing community?

(Sample letters are attached)

PROVISION OF ACCOMMODATIONS

The housing manager will discuss your request for a reasonable accommodation with you. In most cases, housing management will provide reasonable accommodations promptly, at management's expense. The manager will provide a letter outlining how and when the accommodation will be provided.

Sometimes, the specific accommodation you request may be difficult, time-consuming or expensive to provide, and the housing manager may suggest alternate accommodations that may work just as well. If you believe the accommodation you have requested is the only one that will work, be prepared to explain why. Have a back-up plan in mind and be willing to discuss alternatives.

If you and the housing manager disagree about whether the request is reasonable, the housing provider should be prepared to explain why. You may contact a fair housing agency in your area for technical assistance – they are a good information source for accommodation ideas, funding resources, etc.

If the housing manager determines that they cannot fulfill the request because it poses an undue financial and administrative burden or because it would cause a fundamental alteration in the housing program, they will advise you in writing, and offer an opportunity for you to make a modified request.

RESOURCES/QUESTIONS

If you have any questions regarding your rights and responsibilities under the fair housing laws, contact a fair housing agency in your area listed on the attached sheet.

This information does not constitute legal advice. The fair housing laws are subject to change. If you have questions about this topic or other fair housing issues, feel free to contact one of the listed agencies.

AVAILABLE IN ALTERNATE FORMATS UPON REQUEST -- CONTACT KING COUNTY OFFICE OF CIVIL RIGHTS, 206-296-7592, 296-7596 TTY.

SAMPLE LETTERS FOR TENANTS

This is a sample letter for tenants or prospective tenants to use when requesting a reasonable accommodation or modification.

REASONABLE ACCOMMODATION REQUEST #1

April 17, 2003

Danny Thomas, Building Manager
123 N. Main Street
Seattle, WA 98123

Dear Mr. Thomas:

I live at the Evergreen Apartments at 123 N. Main in unit #205. I (or a member of my household) am a person with a disability.

Our building's rules state a "no pets" policy. Because of my disability, a doctor has prescribed a service animal to assist with my daily living.

I am requesting that you make a reasonable accommodation in the building's rules to permit me to have a service animal in my apartment. My service animal is a golden Labrador retriever.

Please respond in writing to my request for a reasonable accommodation within a week. I look forward to your response and appreciate your attention to this matter.

Sincerely,
Jim Smith

[NOTE: You are not required to disclose the exact nature of your disability to the housing provider. However, you may share that information if you wish and if you believe it will assist them in providing you with reasonable accommodations.]

REASONABLE ACCOMMODATION REQUEST #2

Dear Mr. Thomas:

I live at the Evergreen Apartments at 123 N. Main in unit #678. I (or a member of my household) have low vision and need written materials in large print form (at least 20 point type).

As an accommodation for my disability, I request that you provide me with a large print copy of the lease, tenancy rules, safety rules, tenant notices, and other printed materials given to tenants or posted on the grounds.

Please respond in writing to my request for a reasonable accommodation within a week. I look forward to your response and appreciate your attention to this matter.

Sincerely,
Annette Jones

REASONABLE ACCOMMODATION REQUEST #3

Dear Mr. Thomas:

I live at the Evergreen Apartments at 123 N. Main in unit #391. I (or a member of my household) have a mobility disability and use a Washington state disabled parking permit. I have enclosed a photocopy of my state parking permit.

As an accommodation for my disability, I request that you provide me with a reserved accessible parking space nearest to the front door of my unit. I need a regular size parking space with no extra access aisle. I believe that the parking space at the end of the row nearest the mailboxes on the north side of Building 3 would be the best spot for me to access my apartment unit.

Please respond in writing to my request for a reasonable accommodation within a week. I look forward to your response and appreciate your attention to this matter.

Sincerely,
Nadia Green

REASONABLE MODIFICATION REQUEST

April 17, 2003

Danny Thomas, Building Manager
123 N. Main Street
Seattle, WA 98123

Dear Mr. Thomas:

I live at the Evergreen Apartments at 123 N. Main in unit #663. I (or a member of my household) use a wheelchair.

As an accommodation for my disability, I request your permission to install grab bars in the bathroom of my unit, near the toilet and inside the bath stall, at my expense. I intend to hire Able Carpenters Company to do the installation, which will include wall reinforcement to current state building codes. Joe Johnson at ACC is willing to discuss this project with you, show you the blueprints and discuss any concerns you may have. If you wish, I will have the grab bars removed when I vacate my unit.

Please respond in writing to my request for a reasonable modification within ten days. I look forward to your response and appreciate your attention to this matter.

Sincerely,
Song Nguyen

SAMPLE REASONABLE ACCOMMODATION LETTER
FROM SERVICE PROVIDER (ON LETTERHEAD)

April 23, 2003

Danny Thomas
Building Manager
123 N. Main Street
Seattle, WA 98123

Dear Mr. Thomas:

(Name of tenant) is my client/patient, and has been under my care since (date). I am familiar with his/her history and disability-related functional limitations. S/he meets the definition of disability under the fair housing laws.

To enhance his/her ability to live independently and to full use and enjoyment of his/her dwelling, I am prescribing _____ that will assist (name of tenant) with the functional limitations relating to his/her disability.

-or-

To enhance his/her ability to live independently and to full use and enjoyment of his/her dwelling, I hereby verify that (name of tenant) requires the accommodation(s) listed here:

I am available to answer any questions you may have concerning my recommendation that (name of tenant) have this accommodation.

Sincerely,

Name of Professional