



LEE'S SUMMIT
MISSOURI
Development Services Department

Application Information

Appl. #PL2019-359– Unified Development Ordinance (UDO) Amendment – Changes to Article 1 – General Provisions, Article 2 - Applications and Procedures and Article 8 – Site Design, to create an administrative reasonable accommodation process and reference ADA design standards in the International Building Code; City of Lee’s Summit, applicant.

Overview of Amendment

The purpose of this amendment is to create an administrative process for reasonable accommodations related to disabilities and to create a reference to ADA standards in the International Building Code (IBC).

Background

Other communities have adopted administrative processes to allow for items such as wheelchair ramps in setbacks to accommodate those with disabilities. Normally, structures located in setbacks require a variance and involve a minimum 30-day process with fees totaling \$465. As drafted, the amendment allows a staff board to examine each situation on a case-by-case basis and grant relief with minimal process. The other part of the amendment takes the ADA parking lot standards out of the UDO and creates a reference to the IBC. This is better for the City as new building codes are adopted every 6 years and some ADA standards change between code cycles.

Effective Date

Pending approval

Affected UDO Section(s)

Article 1 – General Provisions, Section 1.300 Reasonable Accommodation (New Section)

New Standard(s)

- A. **Purpose.** This Section implements the policy of the City of Lee’s Summit on requests for reasonable accommodation in its rules, policies and procedures for persons with disabilities as required by the Fair Housing Act, as amended, 42 U.S.C. Section 3604(f)(3)(B) and Title II of the Americans with Disabilities Act, 42 U.S.C. § 12132. The policy of the City is to comply fully with the provisions of the Fair Housing Act and Title II of the Americans with Disabilities Act.

Any person with disabilities and eligible under the Fair Housing Act or Title II of the Americans with Disabilities Act may request a reasonable accommodation with respect to the various provisions of the UDO including land use or zoning laws, rules, policies, practices and/or procedures of the City as provided by the Fair Housing Act and Title II of the Americans with Disabilities Act pursuant to the procedures set out in this Section.

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

- B. **Definitions.** For the purposes of this Section, certain terms and words are hereby defined as follows:
ACTS. Collectively, the FHA and the ADA.

ADA. Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131, *et seq.*, and its implementing regulations, 28 C.F.R. Part 35.

APPLICANT. An individual, group or entity making a request for reasonable accommodation pursuant to this Section.

FHA. The Fair Housing Act, Title III of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601 *et seq.*, as may be amended.

DISABLED PERSON. Any person who is “handicapped” within the meaning of 42 U.S.C. § 3602(h) or a “qualified individual with a disability” within the meaning of 42 U.S.C. § 12131(2).

DWELLING. A “dwelling” as defined in 42 U.S.C. § 3602(b).

UNIFIED DEVELOPMENT ORDINANCE, The City of Lee’s Summit Unified Development Ordinance consisting of Title IV of the City’s Codes of Ordinances .

Unless specifically defined in this section all terms have the same meaning as contained in Chapter 411 of the City Code.

C. Requesting Reasonable Accommodations:

In order to make specific housing available to one or more individuals with disabilities, a disabled person or a person acting on his or her behalf at his or her request (collectively, the “Applicant”) may request a reasonable accommodation relating to the various land use or zoning rules, policies, practices and/or procedure of the City applicable to such housing.

1. A request by an Applicant for reasonable accommodation relating to the UDO, rules, policies, practices and/or procedures shall be made orally or in writing on a reasonable accommodation request form provided by Development Services. The form shall contain:
 - a. The current zoning for the property;
 - b. The name, phone number and address of the owner of the fee interest of the property (if other than the Applicant);
 - c. The nature of the disability that requires the reasonable accommodation. In the event that the specific individuals who are expected to reside at the property are not known to the Applicant in advance of making the application, the Applicant shall not be precluded from filing the application, but shall submit details describing the range of disabilities that prospective residents are expected to have to qualify for the housing. The Applicant shall notify Development Services, in the event the residents at the location are not within the range described. Development Services shall then determine if an amended application and subsequent determination of reasonable accommodation is appropriate;
 - d. The specific type of accommodation requested by the Applicant. To the extent practicable, this portion should include information concerning the impact of the reasonable accommodation on the adjoining properties and area, the number of people who are expected to be availing themselves of the reasonable accommodation, the estimated number of people in an average week who will be necessary to provide services to the person(s) with disabilities at the property on an on-going basis, whether or not this type of reasonable accommodation is required to obtain a license from any state or county authority to operate, and any other information the Applicant thinks would assist in determining the reasonableness of the accommodation;
 - e. The Applicant should also note, if known, whether this accommodation requires any additional permits or licensure (e.g. business license); and
 - f. Whether the accommodation requested may be necessary to afford one or more disabled persons equal opportunity to use and enjoy a specific dwelling.
2. Development Services will provide the assistance necessary to an Applicant in making a request for reasonable accommodation, including information which the Development Services deems necessary to complete a reasonable accommodation request form. Upon the City's receipt of the necessary information to process the Applicant's request for reasonable accommodation, the Development Services shall use the information to complete a reasonable accommodation request form.
3. Development Services will provide the assistance necessary to any Applicant wishing to appeal a denial of a request for reasonable accommodation to ensure the process is accessible to the Applicant. The Applicant is entitled to be represented at all stages of the proceedings identified in this Section by a person designated by the Applicant.

4. Should the information provided by the Applicant to Development Services include medical information or records of the Applicant, including records indicating the medical condition, diagnosis or medical history of the Applicant, the Applicant may, at the time of submitting such medical information, request that Development Services to the extent allowed by law, treat such medical information as confidential information of the Applicant.
5. Development Services 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 Development Services for disclosure of the medical information or documentation which the Applicant has previously requested be treated as confidential by Development Services. Development Services 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.

D. Jurisdiction.

1. **Directors Consideration (Staff Committee).** A Staff Committee comprised of Development Services, Public Works and the Fire Department Directors or their designees (Staff Committee) is hereby created and charged with the responsibilities and duties set out herein. The Staff Committee shall have the authority to consider and act on requests for reasonable accommodation. When a request for reasonable accommodation is filed with Development Services, it will be referred to the Staff Committee for review and consideration. The Staff Committee shall issue a written determination within thirty (30) days of the date of receipt of a completed application and may: (1) grant the accommodation request, or (2) deny the request, in accordance with federal or state law. Any such denial shall be in writing and shall state the grounds therefore. All written determinations shall give notice of the right to appeal and the right to request reasonable accommodation in the appeals process. The notice of determination shall be sent to the Applicant by certified mail, return receipt requested and by regular mail.
2. If reasonably necessary to reach a determination on the request for reasonable accommodation, the Staff Committee may, prior to the end of said thirty (30) day period, request additional information from the Applicant, specifying in detail what information is required. The Applicant shall have fifteen (15) days after the date of the request for additional information to provide the requested information. In the event a request for additional information is made, the thirty (30) day period to issue a written determination shall be stayed. The Staff Committee shall issue a written determination within thirty (30) days after receipt of the additional information. If the Applicant fails to provide the requested additional information within said fifteen (15) day period, the Staff Committee shall issue a written determination within thirty (30) days after expiration of said fifteen (15) day period.

E. Findings for Reasonable Accommodation.

The following findings, while not exhaustive of all considerations and findings that may be relevant, must be made before any action is taken to approve or deny a request for reasonable accommodation and must be incorporated into the record relating to such approval or denial:

1. **Whether** the accommodation requested may be necessary to afford one or more persons with disabilities equal opportunity to use and enjoy a specific dwelling;
2. Whether the requested accommodation would require a fundamental alteration to the City's zoning scheme; and
3. Whether the requested accommodation would impose undue financial or administrative burdens on the City.

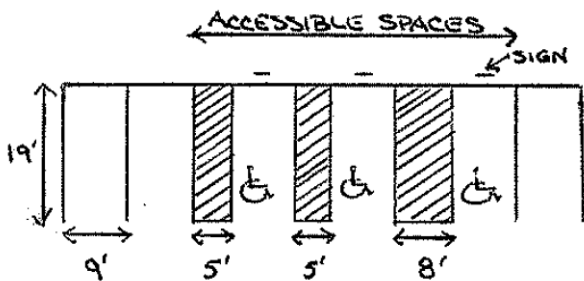

A request for a reasonable accommodation shall not be denied for reasons which violate the provisions of the Acts. This order does not obligate the City to grant any accommodation request unless required by the provisions of the Acts or applicable Missouri State law.

F. Appeals.

1. Within thirty (30) days after the date the Staff Committee mails a written adverse determination to the Applicant, the Applicant requesting reasonable accommodation may appeal the adverse determination.
2. All appeals shall contain a statement of the grounds for the appeal.

3. If an individual Applicant needs assistance in appealing a determination, Development Services will provide the assistance necessary to ensure that the appeal process is accessible to the Applicant. All Applicants are entitled to be represented at all stages of the appeal proceeding by a person designated by the Applicant.
 4. Appeals shall be to the Board of Zoning Adjustment pursuant to Section _____. All determinations on appeal shall address and be based upon the finding that the accommodation requested is necessary to afford one or more disabled persons equal opportunity to use and enjoy a specific dwelling and shall be consistent with the Acts.
 5. An Applicant may request reasonable accommodation in the procedure by which an appeal will be conducted.
- G. **Fees.** The City shall not impose any additional fees or costs in connection with a request for reasonable accommodation under the provisions of this Section or an appeal of a denial of such request by the Staff Committee. Nothing in this ordinance obligates the City to pay an Applicant's attorney fees or costs.
- H. **Stay of Enforcement.** While an application for reasonable accommodation or appeal of a denial of said application is pending before the City, the City will not enforce the subject zoning ordinance against the Applicant.
- I. **Record-keeping.** The City shall maintain records of all oral and written requests submitted under the provisions of this Section, and the City's responses thereto, as required by state law.

Article 8- Site Standards, Section 8.580 Accessible Parking Spaces

Explanation	New Standard(s) <i>(changes shown below in underline and strikeout)</i>
<p>The City adopts a new suite of building codes every 6 years. The building code contains parking lot design, minimum accessible space quantities and designs standards for accessible routes. By centralizing these standards, the City will be adhering to more current, internationally accepted standards.</p>	<p><u>Accessible parking spaces shall be designed and constructed to the standards found in the City's adopted version of the International Building Code.</u></p> <p>A. A portion of the total number of required off-street parking spaces in each parking area shall be specifically designated and reserved for use by persons with physical disabilities.</p> <p>B. One in every eight required accessible spaces (but no less than one) shall be adjacent to an aisle eight feet wide clearly marked with a sign indicating that the space is "van accessible". All other accessible spaces shall have an adjacent aisle five feet wide.</p>  <p>The diagram shows a row of five parking spaces, each 19 feet wide. The first space is 9 feet wide. The next three spaces are 5 feet wide and are shaded with diagonal lines, each containing a wheelchair icon. The final space is 8 feet wide and is also shaded with diagonal lines, containing a wheelchair icon. A sign labeled 'SIGN' points to the 8-foot wide space. Above the spaces, a double-headed arrow is labeled 'ACCESSIBLE SPACES'.</p>  <p>Two signs are shown: a rectangular 'RESERVED PARKING' sign with a wheelchair icon, and a rounded rectangular 'VAN ACCESSIBLE' sign.</p>

C. Accessible spaces shall be provided in each parking lot in the following ratio to the total number of spaces required for the use. These spaces shall be counted as part of the total number of parking spaces required by this division. A modification or variance may not be granted for the number of required accessible spaces.

Table 8-3-
ACCESSIBLE SPACES REQUIRED

Spaces Required for Use	Auto Accessible	Van Accessible	Total
1 to 25	0	1	1
26 to 50	1	1	2
51 to 75	2	1	3
76 to 100	3	1	4
101 to 150	4	1	5
151 to 200	5	1	6
201 to 300	6	1	7
301 to 400	7	1	8
401 to 500	7	2	9
501 to 1,000	7 per 8 accessible spaces	1 per 8 accessible spaces	2% of total spaces
1,001 and over	7 per 8 accessible spaces	1 per 8 accessible spaces	20, plus 1 per 100 spaces over 1,000

D. Access aisles shall be on the same level as the parking spaces they serve.

E. Accessible parking spaces shall be located on a surface with a slope not exceeding one vertical foot in 50 horizontal feet.

F. Accessible spaces shall be located at the nearest point to the front building entry and/or accessible ramp. Accessible spaces separated from the front building entry by a drive aisle shall have clearly discernable cross walks.

G. Accessible ramps shall be designed and constructed so as to be integrated into the sidewalk. Ramps shall not be located within or

	<p>extend into an accessible space, access aisle or any other portion of the parking lot.</p> <p>H. Parking spaces for vans shall have a vertical clearance of 98 inches minimum at the space and along the vehicular route thereto. In cases of a loading zone, a minimum vertical clearance of 114 inches shall be provided at passenger loading zones and along vehicle access routes to such areas from site entrances.</p> <p>I. Every accessible parking space required by this division shall be identified by a sign, mounted on a pole or other structure, located between 36 inches and 60 inches above the ground, measured from the bottom of the sign, at the head of the parking space. A sign identifying an accessible parallel parking space shall be mounted 84 inches above the ground, measured from the bottom of the sign, and shall be placed at a point parallel to the center of the parking space. All identifying signs shall be 12 inches wide by 18 inches in height and meet the requirements set forth in the Manual on Uniform Traffic Control Devices, as referenced in the Lee's Summit General Code of Ordinances.</p> <p>J. In addition to the requirements of this section, all accessible parking spaces and areas shall comply with the requirements of the federal Americans with Disabilities Act.</p>
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Article 2 –Applications and Procedures, Section 2.360- - Final development plans; applications—Contents and submission requirements.

<p>Explanation</p>	<p>New Standard(s) <i>(changes shown below in underline and strikeout)</i></p>
<p>By requiring applicants to label accessible routes on Final Development Plans, staff can more accurately review and inspect these routes for compliance with ADA standards.</p>	<p>18. Location and dimensions of all parking spaces, accessible spaces, <u>accessible routes</u>, drive aisles, driveways, and curbs.</p>

Comprehensive Plan	
Focus Area(s)	Goals, Objectives and Policies
Overall Area Land Use	Objective 1.1 Objective 1.4
Economic Development	Objective 2.1
Residential Development	Objective 3.2 Objective 3.3
Commercial Development	Objective 4.2 (B)
<p>The Comprehensive Plan supports the reasonable accommodation process and general ADA standards through encouraging residential housing opportunities for all members of the community. Commercial and Economic Development plan policies emphasize site design that is functional for pedestrian and vehicular movement. The change of referencing ADA standards in the building code allows the City to use more up to date designs for ADA parking lot features allowing for commercial development that work for all users.</p>	

Recommendation
Staff recommends APPROVAL of the UDO amendment to Articles 1, 2 and 8 as presented.