

ARTICLE 1. GENERAL PROVISIONS

Table of Contents

Section 1.010.	Short title; introduction to Chapter	2
Section 1.020.	Authority	2
Section 1.030.	Jurisdiction	2
Section 1.040.	Purpose (Amend. #33).....	2
Section 1.050.	Relationship to other provisions of the Code.....	3
Section 1.060.	Relationship to comprehensive plan and other policies.....	3
Section 1.070.	Administrative delay of development applications.....	3
Section 1.080.	Relationship to private restrictions	4
Section 1.090.	Prohibitions.....	4
Section 1.100.	Adequate public facilities and services	4
Section 1.110.	Zoning of annexed lands.....	5
Section 1.120.	Effective date.....	5
Section 1.130.	Development under prior regulations	5
Section 1.140.	Violations of prior regulations.....	6
Section 1.150.	Violations.....	6
Section 1.160.	Penalty for violations and civil remedies (Amend. #33).....	6
Section 1.170.	Severability.....	7
Section 1.180.	Fees	7
Section 1.190.	Applicability to Public Facilities	8

Section 1.010. Short title; introduction to Chapter

- A. This Chapter shall be known and may be cited as the Unified Development Ordinance of the City of Lee's Summit, Missouri and may be abbreviated as "UDO".
- B. This Chapter repeals, replaces, augments and revises Unified Development Ordinance No.5209 of the Lee's Summit Municipal Code in existence on the effective date of this Chapter. (Amend. #22)

Section 1.020. Authority

This Chapter is adopted pursuant to the authority granted to the City by the Lee's Summit, Missouri Charter and by Chapters 89 and 445 of the Revised Statutes of the State of Missouri; pursuant to the City's nuisance powers, including, but not limited to those granted by Sections 71.780 and 305.575 of the Revised Statutes of the State of Missouri (as amended); and pursuant to the City's police powers.

Section 1.030. Jurisdiction

This Chapter shall be effective throughout the corporate limits of the City and on property owned by the City outside the corporate limits of the City. Except where otherwise indicated, the provisions of this Chapter shall apply to the City and all of its agencies. Nothing herein shall be construed to preclude the City from adopting and enforcing extraterritorial zoning, planning, subdivision and building regulations pursuant to RSMo. 89.144, and amendments thereto.

Section 1.040. Purpose (Amend. #33)

The purpose of this Chapter is to regulate and control the development of land and matters relating thereto within the City to promote the public safety, health, and general welfare of the community and to implement the Comprehensive Plan as now in effect and as it may be amended from time to time. The provisions of this Chapter are designed to promote:

- A. A strong and positive civic image and identity, based on a high quality living and working environment, an attractive physical setting, safety from fire, flood, crime and other dangers and responsive City services and programs; (Amend. #33)
- B. A living environment that supports the local population, is adaptable to market demands for diverse types and styles of residential living, accommodates future growth, is affordable for all segments of the population, and maintains and improves the overall quality and character of the City;
- C. A system of quality retail and commercial development that provides local residents with needed goods and services and enhances the City's tax base;
- D. Quality employment opportunities for all segments of the population;
- E. A physical relationship between employment opportunities, residential living and goods and services that allow for reduced dependence on the automobile;
- F. A balanced transportation system that provides for safe and efficient movement of vehicles and pedestrians while re-enforcing surrounding land development patterns and that enhances and complements regional transportation facilities;
- G. A park and open space system that satisfies the recreational and leisure needs of local residents, preserves the natural environment and enhances the quality and character of the City;

- H. A balance between the natural and man-made environments that preserves and protects natural features while promoting development and redevelopment;
- I. The protection and preservation of existing properties and values from adverse or non-harmonious adjacent property uses;
- J. Public facilities and services adequate to meet the needs generated for such facilities and services by development; and
- K. The protection and preservation of historic properties, structures, landmarks and districts.

Section 1.050. Relationship to other provisions of the Code

- A. Cross-references. The use of buildings and land within the City is subject to all other applicable provisions of the City Code as well as this Chapter, whether or not the other provisions of the City Code are specifically cross-referenced in this Chapter. Cross-references to other provisions of the City Code in this Chapter are for the convenience of the reader, and the lack of a cross-reference should not be construed as an indication that other provisions of the City Code do not apply.
- B. Chapter provides minimum requirements. In interpreting and applying the provisions of this Chapter, each provision shall be construed to be the minimum requirements necessary for the promotion of public health, safety or the general welfare. Whenever this Chapter requires a lower height of a building or lesser number of stories, or requires a greater percentage of the lot to be left unoccupied, or imposes more restrictive standards than are required pursuant to any other statute or local regulation, this Chapter shall govern.

Section 1.060. Relationship to comprehensive plan and other policies

It is the intention of the City that this Chapter implement the planning policies adopted for the City as reflected in the Comprehensive Plan, as amended, and other planning documents. While the City reaffirms its commitment that this Chapter and any amendment thereto be in conformity with adopted planning policies, the City hereby expresses its intent that neither this Chapter nor any amendment thereto may be challenged merely on the basis of an alleged nonconformity with the Comprehensive Plan or other planning policy.

Section 1.070. Administrative delay of development applications

- A. Authority. The Governing Body, by resolution, may direct the Director, or other appropriate City staff, not to initiate or not to continue the processing of any development application authorized by this Chapter; provided that, the Governing Body has previously directed City staff to prepare, or obtain consultant assistance in the preparation of, Chapter text amendments contemplated by Section 4.250 of this Chapter, or planning policies.
- B. Procedure. The Governing Body, in the resolution, shall establish the types and nature of development applications with respect to which processing shall be delayed. This decision shall be based upon the likelihood that the proposed Chapter text amendment or planning policy may have an impact on the content and submission requirements and/or consideration of a certain type and/or nature of development applications. The resolution may delay the processing of certain types or nature of, or all, development applications within the entire City or a defined geographic area of the City, if it determines that development applications related to property within the defined geographic area covered by the resolution will be impacted by the proposed Chapter text amendment or planning policy.

- C. Effective period. The resolution shall establish the period of time within which processing of development applications shall be delayed or discontinued. The period of time set shall not exceed one (1) year from the date of adoption of the resolution; provided that, in no event shall the period set extend beyond the date upon which the Governing Body makes a final decision in its consideration of the Chapter text amendment or planning policy that it has directed City staff to prepare. If the Governing Body determines that a good faith effort is being made to prepare and make a final decision on the Chapter text amendment or planning policy, but that no final decision has been made, it may extend the period of time set in the initial resolution for an additional period, not to exceed one (1) year.
- D. Purpose. This section is designed to preserve the status quo while consideration is given to a Chapter text amendment or planning policy, and to prevent the establishment of a new nonconforming situation that will undermine the effect of the Chapter text amendment before it is adopted.

Section 1.080. Relationship to private restrictions

The provisions of this Chapter are not intended to affect any deed restriction, covenant, easement or any other private agreement relating to, or restricting, the use of land. Where the provisions of this Chapter are more restriction than any private restriction, the requirements of this Chapter shall control. Where the provisions of any private restriction are more restrictive than the provisions of this Chapter, the private restrictions shall control, if properly enforced by a person having the legal right to enforce the restrictions. Private restrictions shall not be enforced by the City.

Section 1.090. Prohibitions

- A. No building or structure shall be erected, constructed, reconstructed, moved or altered, nor shall any building, structure or land be used for any purpose except in accordance with the provision of this Chapter and other relevant provisions of the City Code.
- B. No person may use, occupy, or sell any land or building or authorize or permit the use, occupancy, or sale of land or buildings except in accordance with all of the applicable provisions of this UDO.
- C. The density and yard requirements of this Chapter are the minimum regulation for each and every building or structure constructed after the effective date of this Chapter and for any building or structure hereafter constructed or structurally altered. No land required for yards or other open spaces around an existing building or any building hereafter erected or structurally altered shall be considered a yard or lot area for more than one building.
- D. For purposes of this section, the "use" or "occupancy" of a building or land relates to anything and everything that is done to, on, or in that building or land.

Section 1.100. Adequate public facilities and services

In order to prevent the premature development of land which might pose a threat to the health, safety or general welfare of the community at large, or the occupants of land in the particular area of the City, it shall be the policy of the City that no application for special use permit, preliminary or final development plan or preliminary or final plat shall be approved unless public facilities and services, which are adequate to serve the development, are either:

1. Presently available, or
2. Are to be provided as a condition of approval of the application, or
3. Are planned to be available reasonably concurrent with the anticipated impacts of the proposed development as determined by the affected utility, agency or department.

Section 1.110. Zoning of annexed lands

Unless land is rezoned at the time of its annexation into the City, the land shall retain its zoning classification under county or township zoning until the property is rezoned pursuant to the provisions of this Chapter. The City shall have the authority to pursue remedies for violations of such county or township regulations to the same extent that it may pursue remedies for violation of this Chapter pursuant to Section 1.160.

Section 1.120. Effective date

The provisions of this Chapter are hereby adopted and become effective on the 1st day of November 2001.

Section 1.130. Development under prior regulations

- A. Previously Existing Regulations. Those regulations in effect immediately prior to the effective date of this Chapter shall be referred to in this Chapter as the "previously existing regulations." This Chapter shall be referred to either as "these regulations" or the UDO.
- B. Administrative Permits. All permits issued by an administrative official or body, or a legislative body acting in an administrative capacity, prior to the effective date of this Chapter shall be valid until their expiration under the previously existing regulations. Applications for administrative permits submitted after the effective date of these regulations shall be reviewed and evaluated pursuant to the requirements of this Chapter, except as further specified in Article 15.
- C. Subdivision. Complete applications for preliminary plat(s) submitted prior to the effective date of these regulations shall be processed under the previously existing regulations. Incomplete applications for preliminary plats submitted prior to the effective date of this Chapter, and that are not submitted in a complete form until after the effective date of this Chapter, shall be processed under this Chapter. All applications for subdivision approvals submitted after the effective date of these regulations shall be reviewed pursuant to these regulations. Preliminary or final plat applications, approved under the previously existing regulations, that are allowed to lapse or expire will be subject to reapplication under these regulations.
- D. Zoning.
 1. Existing uses may continue either in compliance with these regulations or as legal non-conforming uses subject to the requirements of Article 15.
 2. Existing lots that do not comply with the requirements of these regulations may be developed pursuant to the requirements of Article 15.
 3. Applications for proposed new uses submitted after the effective date of this Chapter shall be considered pursuant to these regulations.
- E. Special use permits. The Director shall monitor all outstanding special use permits issued under the previously existing regulations and prior to expiration of an existing

special use permit, the permit holder may, if required under this UDO, apply for a special use permit as set forth in Article 10 of this Chapter. (Amend. #22)

- F. Nonconforming situations. All nonconforming situations and uses shall be governed by Article 15 of this Chapter.

Section 1.140. Violations of prior regulations

All violations under the previously existing regulations that exist within the City as of the effective date of this Chapter, shall continue to be violations and shall not be considered to be legal, nonconforming situations under this Chapter. The City shall have the authority to secure remedies for violations of those regulations to the same extent that it may secure similar remedies for violations of this Chapter pursuant to Section 1.160.

Section 1.150. Violations

If any building or structure is erected, constructed, reconstructed, altered, converted, moved or maintained, or any building, structure, or land is used in violation of this Chapter or regulations made under its authority, a Code Enforcement Officer may institute any proper action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, conversion, moving, maintenance or use; to restrain, correct or abate the violation; to prevent the occupancy or use of the building, structure, or land; or to prevent any illegal act, conduct, business or use in and to the premises.

Section 1.160. Penalty for violations and civil remedies (Amend. #33)

- A. Civil citations. If the Code Enforcement Officer determines that a violation of this Chapter or regulations made under its authority has occurred, the Code Enforcement Officer may issue the violator a civil citation, which shall be proceeded upon in accordance with the provisions herein. The civil citation shall be issued to the violator by the Code Enforcement Officer upon a uniform municipal infraction form provided by the clerk of the municipal court, which shall include a notice or summons to answer the charges against him within the time specified on the form for hearing before the municipal court. Upon issuance of a civil citation, the Code Enforcement Officer shall provide a copy of the notice or summons to the clerk of the municipal court.
- B. Plea and fines. Any person issued a civil citation for a violation of this Chapter or regulations made under its authority, for which payment of a fine may be made to the municipal court, shall have the option of paying the fine in the sum and within the time specified in the civil citation upon entering a plea of guilty and upon waiving an appearance in court. It shall be the duty of the municipal court to accept payment of a fine. The payment of a fine to the municipal court shall be deemed an acknowledgment of conviction of the alleged offense and the court, upon accepting the prescribed fine, shall issue a receipt to the violator acknowledging payment. Any person issued a civil citation may, in the alternative, enter a plea of not guilty, and upon the entry of a plea of not guilty, shall be entitled to a trial as authorized by law.
- C. Fines for violations. Violations of any provision of this Chapter are hereby declared to be public offenses and, pursuant to the authority of RSMo. 89.120, misdemeanors. The owner or general agent of a building or premises where a violation of any provision of the regulations has been committed or exists, or the lessee or tenant of an entire building or entire premises where a violation has been committed or exists, or the owner, general agent, lessee or tenant of any part of the building or premises in which a violation has been committed or exists, or the general agent, architect, builder,

contractor or any other person who commits, takes part in or assists in any violation or who maintains any building or premises in which any violation exists shall be guilty of a misdemeanor punishable by a fine of not less than ten dollars (\$10.00) and not more than two hundred fifty dollars (\$250.00) for each and every day that such violation continues, or by imprisonment for ten (10) days for each and every day the violation continues, or by both fine and imprisonment, in the discretion of the court. For the second and subsequent offenses involving the same violation at the same building or premises, the punishment shall be a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) for each and every day that the violation shall continue, or by imprisonment for ten (10) days for each and every day that the violation shall continue, or by both fine and imprisonment in the discretion of the court. (Amend. #33)

- D. Penalty after notice of violation. Any person who, having been served with an order to remove a violation, shall fail to comply with the order within ten (10) days after the service or shall continue to violate any provision of this Chapter in the same manner as stated in the order shall also be subject to a civil penalty of two hundred fifty dollars (\$250.00).
- E. Civil lawsuits. The City shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this Chapter and to abate nuisances maintained in violation thereof. In the event that any building or structure is or is proposed to be erected, constructed, altered, converted, moved or maintained in violation of this Chapter, or any building, structure or land is proposed to be used in violation of this Chapter, the City Attorney, or other appropriate authority of the City may, in addition to any other remedies, institute injunction, mandamus or any other appropriate actions or proceeding to prevent the unlawful erection, construction, reconstruction, alteration, conversion, moving, maintenance or use, or to correct or abate the violation, or to prevent the occupancy of the building, structure or land, or to prevent any illegal act, conduct, business or use in or about the premises.

Section 1.170. Severability

It is the City's intention that the sections, subsections, paragraphs, sentences, clauses and phrases of this Chapter are severable, and if any section, subsection, paragraph, sentence, clause or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, the unconstitutionality or invalidity shall not affect any of the remaining sections, subsections, paragraphs, sentences, clauses or phrases of this Chapter since the same would have been enacted without the incorporation into this Chapter of the unconstitutional or invalid section, subsection, paragraph, sentence, clause or phrase. The Council hereby declares that it would have passed the ordinance that adopted this Chapter and each section, subsection, paragraph, sentence, clause and phrase hereof irrespective of the fact that any one or more section, subsection, paragraph, sentence, clause or phrase be declared unconstitutional. (Amend. #48)

Section 1.180. Fees

- A. Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, special use permits, subdivision plat approval, zoning amendments, variances and all other applications covered by this Chapter. The amount of the administrative

fees charged shall be established by the City of Lee's Summit Schedule of Fees and Charges, as amended.

- B. Fees established in accordance with this Section shall be paid upon submission of a signed application or notice of appeal.

Section 1.190. Applicability to Public Facilities

- A. The zoning regulations contained in this Chapter are not applicable to the State of Missouri, its lawfully designated subdivisions or agencies, or property of the state or its subdivisions or agencies. Public property is subject to the provisions and procedures of this Chapter with regard to police power regulations regulating health, safety and welfare. Review of the location, extent and character of the proposed development of public property is permissible to the extent provided in Article 4 of this Chapter.
- B. The zoning regulations contained in this Chapter are applicable to the City and all of its agencies, except where otherwise indicated. From and after the date that the City has adopted a comprehensive plan of the municipality or any part thereof, no street or other public facility, or no public utility, whether publicly or privately owned, and, the location, extent and character thereof having been included in the recommendations and proposals of the plan or portions thereof, shall be constructed or authorized in the municipality until the location, extent and character thereof has been submitted to and approved by the Commission.

Section 1.200. Reasonable Accommodation

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.
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- 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.