

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MISSION, TEXAS, AMENDING CODE OF ORDINANCES APPENDIX A (ZONING); SPECIFICALLY, ADDING ARTICLE IV-A (ACCOMMODATIONS REVIEW BOARD); PROVIDING FOR ENACTMENT; AN EFFECTIVE DATE; SEVERABILITY; CODIFICATION AND PROPER NOTICE AND MEETING.

WHEREAS, the City of Mission is a home-rule municipality; and

WHEREAS, the Mission City Council may adopt ordinances that protect the health, safety and general peace and order of the municipality; and

WHEREAS, the City Commission has determined that it is in the best interest of the residents of Rio Grande City to provide persons with a disability with reasonable accommodations in the City's zoning, subdivision, building code, fire code, and other regulations, policies, practices and procedures when it is necessary to eliminate barriers to housing opportunities to ensure that a person with a disability has an equal opportunity to use and enjoy a residence.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MISSION, TEXAS, THAT:

Section 1: Enactment. Appendix A of the City of Mission's Code of Ordinances is amended by adding Article IV-A (Accommodations Review Board), as follows:

Chapter 1. Accommodations Review Board

Section 1.01 - Generally.

The accommodations review board shall consist of the members of the Zoning Board of Adjustment and alternate members of the Zoning Board of Adjustment and the chairperson shall be the chairperson of the Zoning Board of Adjustment. All members of the accommodations review board are subject to Article III, Boards, Committees, Commissions.

Section 1.02. - Duties, responsibilities and meetings.

The accommodations review board shall be responsible for reviewing requests for reasonable accommodation and granting or denying reasonable accommodations as described below. The chair, or, in his or her absence the acting chair, may administer oaths and compel the attendance of witnesses. The accommodations review board shall hold meetings as needed for the conduct of its business, and may establish rules and regulations for the performance of its duties. Such meetings will generally be held before or after regular meetings of the Zoning Board of Adjustment. A majority of the regular membership of the accommodations review board shall constitute a quorum. A quorum must be present to convene a meeting and to take action.

Chapter 2. Reasonable Accommodations

Section 1.03 – Purpose.

The city, pursuant to the Fair Housing Amendments Act of 1988 ("FHAA") 42 U.S.C. § 3601, et seq., as amended, and the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12101, et seq., as amended, intends to provide persons with a disability with reasonable accommodations in the city's zoning, subdivision, building code, fire code, and other regulations, policies, practices, and procedures when it is necessary to eliminate barriers to housing opportunities to ensure a person with a disability has an equal opportunity to use and enjoy a dwelling.

Section 1.04. – Applicability.

1. The provisions of this article apply to residential uses that will be used by persons with disabilities.
2. The reasonable accommodation granted shall be considered personal to the individual(s) and shall not run with the land. If the structure or property impacted by the reasonable accommodation is sold, or otherwise changes ownership, a reasonable accommodation granted to the previous owner is not transferable to the new owner. Notwithstanding, the reasonable accommodation shall be in force and effect as long as the person(s) or group of persons with disabilities for whom the reasonable accommodation was sought resides in the structure or on the property that is the subject of the reasonable accommodation.
3. Nothing in this article will require the city to expend any funds to achieve a reasonable accommodation except and to the extent required by state or federal law.
4. Nothing in this article will alter a person with disabilities' obligation to comply with other applicable federal, state and city regulations.

Sec. 1.05. - Definitions.

Person with disabilities, for the purposes of this article, has the meaning set forth in the federal Fair Housing Act and the Americans with Disabilities Act, as amended.

Reasonable accommodation (inclusive of modification) means the act of making a dwelling unit or housing facility(ies) readily accessible to and usable by a person with disabilities, through the removal of constraints imposed by the city's requirements.

Requirement means a provision of city ordinance or resolution or an administrative policy, program or procedure.

Sec. 1.06. - Method of submitting a request for a reasonable accommodation; fees; confidentiality.

1. A request for a reasonable accommodation may be submitted by any person(s), his or her representative, a developer, or provider of housing for persons with disabilities.

2. A request for a reasonable accommodation may be submitted at any time that the reasonable accommodation may be necessary to ensure equal access to housing.

3. A request for a reasonable accommodation should be submitted in writing to the City Planning Director on a form provided by the planning department:

(a) There is no fee for an application requesting a reasonable accommodation.

(b) The city will retain any information identified by an applicant as confidential in compliance with applicable law and will not disclose the information unless required by law.

(c) If an individual needs assistance in making a request for a reasonable accommodation, the city's Planning Department will provide assistance to ensure that the application process is accessible to the individual.

Sec. 1.07 - Application.

An applicant shall submit the following information before an application for a reasonable accommodation is considered to be complete:

(a) The applicant's name, mailing address, street address, telephone number, and e-mail address.

(b) The applicant's relation to the individual or individuals with a disability, if applicable.

(c) The address of the property to which the requested reasonable accommodation would apply.

(d) If the disability is not obvious, information substantiating that the individual who would obtain the benefit of the reasonable accommodation is disabled.

(e) The city requirement(s) from which a reasonable accommodation is being requested.

(f) If the need for the reasonable accommodation is not readily apparent, a brief explanation of why the requested reasonable accommodation is necessary for the individual or individuals with disabilities to have equal access to housing.

Sec. 1.08. - Review of application for reasonable accommodation; required findings; appeals.

1. Upon receipt of a complete application for a reasonable accommodation, the Accommodation Review Board ("Board"), shall review the application and issue a ruling that grants, grants with conditions, or denies the application.

2. The Board shall hear and consider evidence offered by any interested person. The board's decision must be by a majority vote.

3. The Board may impose reasonable conditions on any reasonable accommodation granted consistent with the purpose of this article.

4. The Board's decision must be consistent with the FHAA and the determination of whether a request for an accommodation is reasonable is based on a consideration of the following factors:

(a) Whether the housing that is the subject of the request will be used by one (1) or more individuals with a disability.

(b) Whether the requested accommodation is necessary to make specific housing available to one (1) or more individuals with a disability.

(c) Whether the requested accommodation would impose an undue financial or administrative burden to the city.

(d) Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a city requirement.

5. The Board's determination is final once it is approved by the majority of the Board and filed with the Planning Department's office.

6. If the Board denies an application for a reasonable accommodation, the action is final.

7. Nothing herein shall prohibit the applicant, or persons on whose behalf a specific application was filed, from reapplying for a reasonable accommodation based on additional grounds or changed circumstances. Nor shall this provision be construed to affect in any way the rights of a person to challenge the denial of a request for reasonable accommodation as violating the Fair Housing Act, the ADA or any other applicable state, federal or local law.

Section 2. Severability. Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court with appropriate jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

Section 3. Effective Date. This ordinance will take effect immediately upon approval of the City Council and remain in full force and effect from and after its passage.

Section 4. Codification. The City Secretary of the City of Mission is hereby directed to record and publish the attached rules, regulations and policies in the City's Code of Ordinances.

Section 5. Proper Notice and Meeting. The City Council finds and determines that the meeting at which this Ordinance was passed was open to the public, and that public notice of the

time, place, and purpose of said meetings were duly given as required by the Texas Open Meetings Act, Tex. Gov't Code Chapter 551.

CONSIDERED, PASSED AND APPROVED this 22nd day of January, 2024.

Norie Gonzalez-Garza, Mayor

ATTEST:

Anna Carrillo, City Secretary

APPROVED AS TO FORM:

Victor A. Flores, City Attorney