

## FAIR HOUSING FOR PERSONS WITH DISABILITIES - REASONABLE MODIFICATIONS

### Protection under the Federal Fair Housing Act

The Federal Fair Housing Act prohibits discrimination in housing, both public and private, based on race, color, religion, sex, national origin, familial status, and disability. One potential type of discrimination under this Act is refusing to provide reasonable accommodation or allow a reasonable modification to a person with a disability.

The FHA describes disability as mental or physical impairments that substantially limit one or more major life activities. Physical and mental disabilities can include, but are not limited to:

- visual, speech, or hearing impairments,
- cerebral palsy, autism, epilepsy, multiple sclerosis, muscular dystrophy, or chronic fatigue,
- cancer, heart disease, diabetes, or HIV/AIDS,
- drug addiction (other than addiction caused by current illegal use of a controlled substance) and alcoholism,
- learning impairments, traumatic brain injury, intellectual development disorder, and other mental or emotional disabilities.

### What is a reasonable modification?

According to the Fair Housing Act, reasonable modification refers to a structural change made to existing premises, occupied or to be occupied by a person with a disability, to afford such person full enjoyment of the premises. These structural changes can be made to the interior or exterior of a dwelling, as well as in common and public use areas. In essence, reasonable modification refers to some physical change to the housing premises.

**Example:** *Because of a hearing disability, a tenant requests to install a peephole in her door to see who is there before she opens it. This is a reasonable modification and must be permitted at the tenant's expense.*

**Example:** *A tenant with a mobility disability wants to install a ramp outside the building in a common area. This is a reasonable modification and must be permitted at the tenant's expense.*

### How do you request a reasonable modification?

Requesting a modification is as simple as giving notice to your housing provider that you need one. You may do this orally or in writing; however, it is preferable to put the request in writing for documentation purposes. You must have a housing provider's approval before making any modifications.

### **Who can make the request for reasonable modification?**

The request can be made by the person with a disability, a guardian, or another person acting on behalf of the person with a disability.

### **May a housing provider ask for proof of disability or the need for modification?**

Proof isn't necessary in cases where the disability is readily apparent or known, and the need for the modification is also evident. However, in cases where the disability is not obvious or the need for the modification is not apparent, the housing provider may request further information.

***Example:** A tenant who is deaf asks his housing provider to allow him to install extra electrical lines and a cable line so the tenant can use computer equipment that helps him communicate with others. If the tenant's disability is already known, the housing provider may not require him to provide documentation of his disability. However, since the need for the electrical and cable lines may not be apparent, the housing provider may request additional information to show the disability-related need for the requested modifications.*

### **What information may the housing provider request?**

In order to evaluate a request for reasonable modification, a housing provider may ask for additional information to:

- verify that the person meets the Fair Housing Act's definition of disability,
- describes the needed modification,
- shows the relationship between the person's disability and the need for the requested modification.

Depending on the needed modification, a housing provider may also require building permits before the project is approved.

### **What materials can I provide to the housing provider if requested?**

- proof of Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) benefits,
- a letter from a doctor or other medical professional verifying the disability and the need for the requested modification (for guidance, please see our [Fair Housing for Medical and Mental Health Professionals booklet](#)),
- a letter from a non-medical service agency verifying the connection between the disability and the requested modification.

### **May a housing provider require additional insurance or increase the security deposit because of the requested modification?**

A housing provider cannot require any additional insurance or security deposit because of a request for a reasonable modification.

***Example:** A tenant needs to install a ramp outside their unit because of a mobility disability. The housing provider agrees to the ramp, but only after the tenant obtains separate liability insurance for the ramp. The housing provider may not impose this requirement as a condition of approval for the ramp.*

### **May a housing provider require a deposit into an interest-bearing account because of the requested modification?**

In some circumstances, a tenant may be responsible for restoring the dwelling to its original state upon move out. In order to ensure funds are available for this restoration, the housing provider can require the tenant to deposit money into an interest-bearing account as a condition of allowing the modification.

A decision to do so would consider the following factors:

- the extent and nature of the proposed modifications,
- the expected duration of the lease,
- the credit and tenancy history of the individual tenant.

***Example:** A new tenant with a poor credit history needs to lower their kitchen cabinets to a more accessible height to accommodate their mobility disability. In this case, it would be reasonable for the housing provider to require payment into an interest-bearing escrow account to ensure funds are available for restoration upon the tenant's move out.*

### **Can a request for reasonable modification be denied, and if so, when?**

A housing provider or homeowners association must allow a reasonable modification to the premises when such a modification may be necessary to afford the person with a disability full enjoyment of the premises. However, the requested modification must be reasonable, there must be a direct relationship between the requested modification and the individual's disability, and the requested modification must be reasonable.

### **Who is responsible for the modification expense?**

In most circumstances, the tenant is responsible for paying the cost of the modification. The upkeep and maintenance of the modification is also the tenant's responsibility if the tenant exclusively uses it and it is not in a common area usually maintained by staff.

If the tenant with a disability lives in housing that receives federal financial assistance, the housing provider must pay for the requested modification unless doing so would be an undue financial and administrative burden or the tenant's needs can be met through other means.

### **When are restorations required?**

A tenant is obligated to restore the interior of their dwelling to its previous condition where it "is reasonable to do so" and where the housing provider has requested the restoration. Modifications made to the exterior of a building or in a common area do not have to be restored. Modifications don't usually have to be removed if they don't affect the housing provider's or subsequent tenant's use or enjoyment of the premises.

***Example:** Because of a mobility disability, a tenant obtained approval from the housing provider to install grab bars in the bathroom. As part of the installation, reinforcements were put on the underside of the wall. These reinforcements are not visible and do not detract from the use of the apartment. Therefore, it would be reasonable for the housing provider to require the tenant to remove the grab bars but not the reinforcements.*

### **Who pays for the restoration?**

If any restoration is required, the tenant must bear the costs unless the unit is in housing that receives federal financial assistance.

### **Can a housing provider suggest an alternative modification or alternative design?**

If the modification is to be made to the interior of the tenant's unit, the housing provider cannot suggest an alternative. However, if the modification is made to a common area, the housing provider may suggest an alternative as long as the tenant does not incur additional costs and the alternative still meets the tenant's needs.

### **What should I do if I need help with my request or suspect my fair housing rights have been violated?**

Please call us toll-free at **1-877-979-3247** to discuss the situation. You can also fill out a contact form on our website ([www.fhcmichigan.org](http://www.fhcmichigan.org)). FHC staff will follow up with you to obtain additional information. We will keep the information you provide confidential. We will not report undocumented immigrants to the authorities.

The Fair Housing Center is a nonprofit organization that provides investigative services (testing), advice, advocacy, conciliation, attorney referrals, and community education for Clinton, Eaton, Hillsdale, Ingham, Jackson, Lenawee, Livingston, Monroe, Shiawassee, and Washtenaw counties. The FHC's mission is to end discrimination in housing and public accommodations and promote accessible, integrated communities.