

CITY OF HOPKINS
Hennepin County, Minnesota

Ordinance No. 2021-1173

**An Ordinance Adding Hopkins City Code, Chapter 1, Section 1-21, Related to the Establishment of
a Process to Consider Reasonable Accommodation Requests**

The City of Hopkins does hereby ordain:

Section 1. The Hopkins City Code is hereby amended by adding the following Section 1-21 to Chapter 1:

Sec. 1-21. Reasonable Accommodation Requests.

(a) *Purpose.* It is the policy of the city, pursuant to the Federal Fair Housing Amendments Act of 1988 to provide reasonable accommodation in the application of zoning and other regulations for qualified persons with disabilities seeking fair and equal access to housing. Reasonable Accommodation means providing a qualified person with flexibility in the application of land use, zoning and other regulations or policies (including the modification or waiver of certain requirements), when it is necessary to eliminate barriers to fair housing opportunities. The purpose of this article is to establish a process for making and acting upon requests for reasonable accommodation.

(b) *Definitions.*

Accommodation Specialist: City staff appointed by the city manager or their designee to coordinate and administer the reasonable accommodation process outlined in Hopkins City Code Section 1-21.

Qualified Person: any individual with a disability, their representative, or a developer or provider of housing for an individual with a disability.

Disability: those disabilities which are recognized under applicable federal law.

Reasonable Accommodation: process by which the city may provide a qualified person flexibility in the application of land use, zoning, or other regulations.

(c) *Initiation of Reasonable Accommodation Request.* Any qualified person who requests a reasonable accommodation in the form of modification in the application of a zoning or other regulation which may act as a barrier to fair housing opportunities due to the disability of existing or proposed residents, may do so on an application form provided by the city's Accommodation Specialist. The application shall include a detailed explanation of why the accommodation is reasonably necessary to make the specific housing available to the person(s), including information establishing that the applicant is disabled under applicable laws, as well as other information required by the Accommodation Specialist to make the determination. If the project for which the request is being made also requires an additional land use review or approval, the applicant shall file the request concurrently with the land use review. Notice of such reasonable accommodation request shall be mailed within fifteen (15) days of receipt of a complete reasonable accommodation request application to each owner of affected property and property situated wholly or partly within 500 feet of the property to which the reasonable accommodation request relates. For the purpose of giving mailed notice, the Accommodation Specialist may use any appropriate records to determine the names and addresses of owners. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the Accommodation Specialist and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners, or defects

in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this notice requirement has been made. Any person providing comments regarding the reasonable accommodation request must provide such comments to the Accommodation Specialist within 14 days of the date of the notice.

(d) *Accommodation Specialist; Required Findings.* The Accommodation Specialist, in consultation with other appropriate city staff, shall have the authority to consider and act on requests for reasonable accommodation. The Accommodation Specialist shall issue a written decision in which the request is approved, approved subject to conditions, or denied. In making the decision as to whether an accommodation is reasonable, the following factors shall be considered:

- (1) Special need created by the disability;
- (2) Potential benefit that can be accomplished by the requested accommodation;
- (3) Need for the requested accommodation, including alternatives that may provide an equivalent level of benefit;
- (4) Physical attributes of and any proposed changes to the subject property and structures;
- (5) Potential impact on surrounding uses;
- (6) Whether the requested accommodation would constitute a fundamental alteration of the zoning regulations, policies, or procedures of the city, and/or nature of the area in which the accommodation is being requested;
- (7) Whether the requested accommodation would impose an undue financial or administrative burden on the city;
- (8) Whether the requested accommodation is likely to have any negative impacts on the health, safety, or general welfare of members of the community, and
- (9) Any other factor that may be determined to have a bearing on the request.

Any approval issued under this section may include such reasonable conditions that the Accommodation Specialist deems necessary to mitigate any adverse impacts that the granting of such reasonable accommodation may produce or amplify.

(e) *Notice of Decision.* The written decision of the Accommodation Specialist shall be mailed to the applicant and any person providing comments pursuant to paragraph (c) of this ordinance within five business days of such decision being made. All written decisions shall give notice of the right to appeal a decision of the Accommodation Specialist pursuant to Section 1-21. The decision of the Accommodation Specialist shall constitute the final decision of the city, unless appealed according to the procedures and within the time limits provided in Section 1-21. Only the aggrieved applicant of the written reasonable accommodation determination has a right to appeal the decision.

A reasonable accommodation approved under this section shall become effective on the first calendar day following expiration of the right to appeal.

(f) *Applicability.* Any approved request shall constitute a limited license which shall allow the property owner or occupant to continue to rely upon such accommodation only so long as they own or occupy the property. Approval of a reasonable accommodation does not constitute a property right, does not run with the land, and does not provide future owners or occupants any rights to rely upon such accommodation approvals. Only the person who applied for such reasonable accommodation, and who is specifically named in the city's approval of such accommodation, shall be entitled to the benefits and protections thereof. The holder of an approved reasonable accommodation license hereunder shall, on or before January 1st of each year, provide the city with an updated affirmation that the reasonable accommodation is still necessary. In the event that the Accommodations Specialist has reasonable cause to believe that the factors supporting the original approval of a reasonable accommodation have changed,

the Accommodation Specialist may request additional information from the license holder. Failure to annually reaffirm the need for the reasonable accommodation, or failure to provide information reasonably requested by the Accommodation Specialist shall result in automatic termination of the reasonable accommodation upon written notice by the Accommodation Specialist.

(g) *Conditions and Guarantees.* Prior to the issuance of any permits relative to an approved reasonable accommodation request, the Accommodation Specialist may require the applicant to record a covenant acknowledging and agreeing to comply with the terms and conditions established in the determination.

(h) *Appeals.* Any decision reached by the Accommodation Specialist pursuant to Section 1-21 shall be subject to appeal to the City Council by those persons with a right to appeal as provided herein. All appeals shall be initiated by submitting a notice of appeal, in writing, to the Accommodation Specialist within 30 days of the date upon which the decision was made. Upon notice of appeal, the city manager or their designee shall present such appeal to the City Council for action within 30 days. The Accommodation Specialist shall also serve notice of such appeal on all parties entitled to receive notice of a decision issued under Section 1-21. Following a hearing on such appeal, the City Council shall issue its findings, in writing, within 30 days.

Section 2. The effective date of this ordinance shall be the date of publication.

First Reading: October 19, 2021.

Second Reading: November 3, 2021.

Date of Publication NOV. 11, 2021

Date Ordinance Takes Effect: NOV. 11, 2021



Jason Gadd, Mayor

NOV. 3, 2021
Date

ATTEST:



Amy Domeier, City Clerk

