

THE BOROUGH OF DARBY
THE COUNCIL OF THE BOROUGH OF DARBY
DELAWARE COUNTY, PENNSYLVANIA

ORDINANCE NO. 804

**AN ORDINANCE AMENDING THE BOROUGH OF THE DARBY BY
CODE BY ESTABLISHING A FAIR HOUSING REASONABLE
ACCOMODATION PROCESS, ESTABLISHING A ACCOMODATION
REQUEST REVIEW BOARD, ESTABLISHING STANDARDS FOR THE
REVIEW OF A REQUEST FOR A REASONABLE ACCOMODATION,
ESTABLISHING AN APPELLATE PROCESS FOR A DENIAL OF A
REQUEST FOR A REASONABLE ACCOMODATION**

SECTION 1: PURPOSE

The purpose of this chapter is to facilitate compliance with the Fair Housing Amendments Act. Under this chapter, persons covered by the Fair Housing Amendments Act, or those acting on behalf of such persons, may choose a procedure, called a “Fair Housing Accommodation,” to request a reasonable accommodation to applicable Borough codes. When such a reasonable accommodation is requested this procedure is intended to be used in lieu of the usual Borough permit and license procedures.

SECTION 2: DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

(a) “Abutting property owner.” The owner of record of a parcel of land which is contiguous at any point to the parcel in question or is separated from a contiguous point by right-of-way, alley, or easement.

(b) “Act.” The federal Fair Housing Amendments Act of 1988 (42 USC 3601 et seq.)

(c) “Board.” The Accommodation Request Review Board.

(d) “Code.” All ordinances and codes of the Borough of Darby.

(e) “Reasonable accommodations.” “Reasonable accommodation” within the meaning of the Fair Housing Amendments Act.

(f) “Usual procedures.” Any procedure normally used to secure a license or permit issued by the Borough pursuant to any provision of the Code or a regulation promulgated pursuant thereto, including any procedure normally used to receive a variance from said Code or regulation.

SECTION 3: INFORMATION TO BE MADE AVAILABLE.

(a) At any locations at which application is made for any Borough permit or license, signs shall be posted advising applicants that information is available concerning their rights under the Act. An “Information Statement” shall be made available at such locations to advise applicants about the process to be followed to request an accommodation under the Act.

(b) Any license or permit application forms used by the Borough shall contain information advising applicants of the availability of information about the Act.

SECTION 4: REQUESTING A REASONABLE ACCOMMODATION.

(a) An applicant may elect to request a reasonable accommodation under the Act pursuant to the procedures set forth in this chapter in lieu of any usual procedures that would otherwise be available. However, the applicant may not proceed with an accommodation request and the usual procedures at the same time.

(b) If an applicant applies for more than one permit, the applicant may choose separately with respect to each such permit whether to apply under procedures set forth in this chapter or to follow the usual procedures.

(c) A decision will be made separately on each such permit application, so that the grant of one application does not mean that all other applications will necessarily be granted.

(d) An applicant requesting a reasonable accommodation under the Act must file an accommodation request form with the Borough Manager and fully provide all applicable requested information and documents. Once such a form is filed, the procedures outlined in this chapter will be followed until the requested accommodation is granted or denied, and any appeals have been exhausted, or until the request is withdrawn pursuant to this chapter. If the requested accommodation

is finally denied, a person may then seek to obtain the license or permit pursuant to the usual procedures.

(e) The applicant may withdraw a request for accommodation by filing with the Borough Manager a notice to withdraw accommodation request. The processing of an accommodation request form shall be discontinued upon receipt of a notice to withdraw. The applicant may then choose to seek the license or permit under the usual procedures.

(f) If an applicant has applied for a license or permit under the usual procedures, the applicant may, at any time while such application is pending or after an unfavorable decision has been rendered, choose to request a reasonable accommodation under the procedures set forth in this chapter. To so choose, an applicant must file an accommodation request form as set forth in this chapter, and upon such filing the applicant's request for a license or permit under the usual procedures will be deemed withdrawn, and the procedures set forth in this chapter will be followed.

SECTION 5: ESTABLISHMENT OF ACCOMMODATION REQUEST REVIEW BOARD.

(a) There is hereby established an Accommodation Request Review Board, which shall hear and decide all requests for reasonable accommodation.

(b) The individuals serving on the Borough Planning Commission shall constitute the Board. Five members shall constitute a quorum.

SECTION 6: BOROUGH'S PROCESSING OF REASONABLE ACCOMMODATION REQUEST.

(a) When an accommodation request form is filed with the Borough, the form shall be referred to the Accommodation Request Review Board.

(b) The applicant's application must contain all applicable requested information and documents, including but not limited to evidence of compliance with all applicable licensing requirements. The Board may request further information from the applicant as to whether the applicant is entitled to the benefit of the Act and, if so, whether the requested accommodation is reasonable.

(c) The applicant shall be responsible for notifying all abutting property owners of the proposed request for reasonable accommodation and the date that the request will be heard by the Board. Proof of proper notification, on a form supplied by the Borough, shall be required as a precondition before any formal action is taken on the application. Such form must be turned in to the Borough Administrative Office at least ten working days before the scheduled meeting of the Board.

(d) The Borough shall provide written notice of the hearing before the Board at which the application will be discussed, to be conspicuously posted on the affected tract of land at least one week prior to the hearing.

(e) The Board shall make a written decision within 60 days of the date the Borough receives the accommodation request form, or the date the Board receives all further information it has requested, whichever date is later. Such decision shall address whether the requested accommodation is granted, denied, or granted subject to conditions; how long a granted accommodation will remain effective; whether the request is granted with respect to the applicant or with respect to the property; and any other matters the Board deems relevant.

(f) Any license or permit granted under the reasonable accommodation procedure shall bear the legend "Issued as a Reasonable Accommodation Pursuant to the Fair Housing Act, Subject to the Following Conditions and Limitations", with all conditions and limitations, if any, listed.

(g) All reasonable accommodations that would otherwise have required a variance shall cease upon a change in ownership or if the individual(s) with respect to whom the reasonable accommodation was granted is (are) no longer resident on the property.

(h) The applicant must notify the Borough promptly upon a change in occupancy of the property, or if the individual(s) with respect to whom the reasonable accommodation was granted is (are) no longer resident on the property.

SECTION 7: STANDARDS FOR GRANTING REQUESTS. FOR REASONABLE ACCOMMODATIONS.

To the extent the following do not conflict with the Act, the Board shall take into consideration the following criteria, if applicable, in rendering its decision:

- (a) Whether the requested accommodation is necessary to afford a person “handicapped” within the meaning of the Act equal opportunity to use and enjoy a dwelling.
- (b) Whether the requested accommodation would impose an undue financial or administrative hardship upon the Borough.
- (c) Whether the requested accommodation would undermine the purpose of this chapter or procedure with regard to which the applicant is requesting an accommodation.
- (d) Whether the requested accommodation would be compatible and/or in character with other uses in the particular zoning district.
- (e) Whether the requested accommodation would adversely affect traffic and/or parking issues.
- (f) Whether the requested accommodation would adversely affect the health and/or safety of the occupants or the public.

(g) Whether the requested accommodation would adversely affect property values in a manner unrelated to the presence of persons qualifying as “handicapped” under the FHAA.

(h) Whether the applicant has complied with any applicable licensure or other governmental requirements in connection with the ownership, leasing, construction, or operation regarding which the accommodation is sought.

(i) Whether the requested accommodation would undermine the zoning and land use component of the Borough's comprehensive plan.

(j) Whether, if the applicant has requested a reasonable accommodation to the Building Code that implicates a safety concern, the applicant has adequately explained how it intends to satisfy the safety concern underlying the provision to which the applicant seeks an accommodation.

SECTION 8: APPEALS; RIGHT TO AN APPEAL.

(a) The decision of the Accommodation Request Review Board may be appealed to the Borough Council by the applicant or any other person affected by the application who has made timely appearance before the Board or who has submitted a written statement to the Board before or at the time of the hearing. The appeal shall be heard de novo by the Borough Council.

(b) Appeals to court from the decision of the Borough Council may be taken as provided by law.

SECTION 9: PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter shall be subject to penalties as provided in the Borough Code.

ENACTED AND ADOPTED by the Council this 20th day of September , 2023.

ATTEST:

COUNCIL OF THE BOROUGH OF DARBY



Secretary

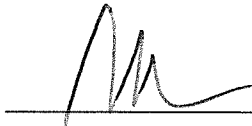


By: Rudolph Taylor, President of Borough Council


APPROVED, this 20th day of September , 2023 , by the Mayor of the Borough of Darby.

ATTEST:

MAYOR OF THE BOROUGH OF DARBY



Secretary

By: 

Mayor