



**Newton Housing Authority**  
**Reasonable Accommodation/Modification**  
**Policy and Procedures**

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**INTRODUCTION**

This Reasonable Accommodation/Modification Policy and Procedures, comprised of Part A and Part B, sets forth the policy and procedures of the Newton Housing Authority (the “LHA”) regarding making reasonable accommodations and reasonable modifications for qualified applicants or residents with disabilities for participation in the LHA programs and activities. A copy of this Reasonable Accommodation/Modification Policy and Procedures is posted in LHA common areas and on the LHA website, located at [www.newtonhousing.org](http://www.newtonhousing.org). Additionally, a copy of this Reasonable Accommodation/Modification Policy and Procedures may be obtained upon request by contacting the LHA office at 617-552-5501.

## **PART A: POLICY**

### **SECTION 1. DEFINITIONS**

1.1. The term “ADA” shall mean the Americans with Disabilities Act, as amended.

1.2. The term “FHA” shall mean the Fair Housing Act of 1968, as amended.

1.3. The term “*individual with a disability*”, shall mean:

- (i) A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- (ii) A record of such an impairment; or
- (iii) Being regarded as having such an impairment

This definition shall be interpreted as further detailed in 28 CFR § 35.108 (Title II ADA regulations).

1.4. The term “Policy” shall mean Part A of this Reasonable Accommodation/Modification Policy and Procedures, as adopted by the LHA Board, and as may be amended from time to time.

1.5. The term “Procedures” shall mean Part B of this Reasonable Accommodation/Modification Policy and Procedures, and as may be amended from time to time, in a manner consistent with the Policy, by the LHA’s Board.

1.6. The term “reasonable accommodation” as used herein means a change in the LHA’s rules, policies, practices, or services, that may be necessary to provide persons with disabilities an equal opportunity to participate in LHA programs, activities, and services, and/or to enjoy LHA dwellings or facilities.

1.7 The term “reasonable modification” as used herein means a physical change, such as to a dwelling unit, building, common or public area, etc., necessary to afford persons with disabilities an equal opportunity to use and enjoy the premises and/or to access programs, activities, and services.

### **SECTION 2. POLICY STATEMENT**

The LHA is committed to ensuring that its policies and practices do not deny individuals with disabilities the equal opportunity to access, participate in, or benefit from, the LHA’s housing services, programs, and facilities, nor otherwise discriminate against individuals with disabilities in connection with the operation of the LHA’s housing services or programs. Therefore, if an individual with a disability requires a reasonable accommodation, i.e., a change to its rules, polices, practices, or services, or a reasonable

modification, i.e., a physical alteration to a housing unit or public or common use area, the LHA will provide such a reasonable accommodation/modification, unless doing so would result in a fundamental alteration to the nature of the program or an undue financial and administrative burden. In such a case, the LHA will engage in an interactive process with the individual or person acting on the individual's behalf to make another accommodation/modification that would not result in a fundamental alteration or financial and administrative burden.

### SECTION 3. PURPOSE

3.1 This Policy is intended to:

(a) communicate the LHA's position regarding reasonable accommodations/modifications for persons with disabilities in connection with the LHA's housing programs services, and policies;

(b) establish a procedural guide for implementing such Policy; and

(c) comply with applicable federal, state and local laws to ensure accessibility for persons with disabilities to housing programs, benefits and services administered by the LHA.

### SECTION 4. AUTHORITY

4.1 The requirements of this Policy are based upon the following statutes and regulations:

(a)Section 504 of the Rehabilitation Act of 1973, as amended ("Section 504"), and implementing regulations at 24 CFR part 8, which prohibit discrimination on the basis of disability status by recipients of federal financial assistance;

(b)The Fair Housing Act ("FHA"), as amended, which prohibits discrimination in the sale, rental and financing of dwellings on the basis of disability and other protected classes. Reasonable accommodation requirements are further clarified under The Joint Statement of the Department of Housing and Urban Development and the Department of Justice on Reasonable Accommodations under the Fair Housing Act<sup>1</sup>;

(c)Title II of the Americans With Disabilities Act ("ADA"), as amended, and implementing regulations at 28 CFR part 35, prohibit discrimination on the basis of disability status by public entities. Except as provided in §35.102(b), of 28 CFR Part 35, the ADA applies to all services, programs and activities provided or made available by public entities (State and local governments and agencies and instrumentalities thereof);

(d)Massachusetts General Laws chapter 151B, which prohibits discrimination against

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<sup>1</sup> [https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint\\_statement\\_ra.pdf](https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf) .

persons with disabilities and other protected classes in the renting, leasing, or sale of housing accommodations.

## SECTION 5. MONITORING AND ENFORCEMENT

The Newton Housing Authority Executive Director is responsible for monitoring the LHA's compliance with this Policy and enforcing the requirements under this Policy. Questions regarding this Policy, its interpretation or implementation should be made by contacting 617-552-5501 or in writing to the Newton Housing Authority office at 82 Lincoln Street Newton Highlands, MA 02461.

## SECTION 6. GENERAL PRINCIPLES FOR PROVIDING REASONABLE ACCOMMODATIONS/MODIFICATIONS

6.1 Listed below are the general principles which provide a foundation for the Policy and which LHA staff should apply when responding to requests for reasonable accommodations/modifications within all LHA housing programs:

(a) It is presumed that the individual with a disability is usually knowledgeable of the appropriate types of, and methods for providing, reasonable accommodations/modifications needed when making a request. However, the LHA may offer equally effective alternatives to the requested accommodation, and/or alternative methods for providing the requested accommodation/modification.

(b) The procedure for evaluation and responding to requests for a reasonable accommodation/modification relies on a cooperative relationship between the LHA and the applicant/resident, or person acting on the applicant/resident's behalf. The process is not adversarial. Instead, it is an **interactive process**, including for the purposes of addressing any needed clarifications as to what is being requested or information that was submitted, any further information that may be needed, and/or in some cases, to discuss alternative accommodations/modifications that may meet the individual's needs.

(c) The LHA shall inform all applicants and residents of alternative forms of communication. The Request for Reasonable Accommodations/Modifications form ("Request Form") (a copy of which is attached to this Policy and Procedures) is designed to assist the LHA and our applicants/residents. If an applicant/resident does not, or cannot use the Request Form, the LHA will still respond to the request for an accommodation/modification. The applicant/resident may also request assistance with the Request Form, or may request that the Request Form be provided in an equally effective format or means of communication through auxiliary aids and services.

(i) Some examples of auxiliary aids and services include the following: qualified interpreters, printed material, telecommunications products and systems including text telephones (TTYs), assistive listening devices, or other effective methods of making aurally delivered materials available to persons

who are deaf or hard of hearing; qualified readers, taped texts, audio recordings, materials written in Braille, large print materials, or other effective methods of making visually delivered materials available to individuals who are blind or have low vision.

(d) If the accommodation/modification is reasonable (see Procedure 3 below), the LHA will grant it.

(e) In accordance with Procedure 3 below, the LHA will grant the request for a reasonable accommodation/modification only to the extent that an undue financial and administrative burden or fundamental alteration to the nature of the program is not created thereby. A “fundamental alteration” is a modification that alters the essential nature of a provider's operations (e.g., a request for a service such as a transportation service that the LHA does not provide under its program). The LHA will make a determination of undue financial and administrative burden on a case-by-case basis, involving various factors, such as the cost of the reasonable accommodation/modification, the financial resources of the LHA, the benefits the accommodation/modification would provide to the requester, and the availability of alternative accommodations/modifications that would adequately meet the requester’s disability-related needs.

The LHA will also grant reasonable modifications in accordance applicable laws, including G.L. c. 151B § 4(7A) with respect to reasonable modifications that are at the expense of owners in publicly assisted housing. The LHA will also set-aside and consult resources for its state-aided public housing in accordance with PHN 2011-13.

(f) All written documents required by or as a result of this Policy must contain plain language and be in appropriate alternative formats in order to communicate information and decisions to the person requesting the accommodation/modification.

(g) Any in-person meetings with a person with mobility impairments will be held in an accessible location. Reasonable accommodations will also be made to meet the person’s disability-related needs, including through telephonic or remote meetings, as well as through requested auxiliary aids or services, to ensure the person has an equally effective opportunity to attend and participate

## SECTION 7. AMENDMENTS

7.1. The Policy may be amended only by resolution of the Board of the LHA.

7.2. The Procedures may be amended within the scope of the Policy by the Board of the LHA.

7.3. Legal Compliance. Any amendment to the Policy or Procedures shall be consistent with all applicable laws and regulations.

## SECTION 8. STAFF TRAINING

The Newton Housing Authority Executive Director will ensure that LHA staff are familiar with this Policy and Procedures and all applicable federal, state and local requirements regarding reasonable accommodations/modifications and will avail herself of training opportunities related to anti-discrimination efforts and reasonable accommodations/modifications.

## **PART B: PROCEDURES**

### **PROCEDURE 1 - COMMUNICATION WITH APPLICANTS AND RESIDENTS**

1. At the time of application, all applicants will be provided with the opportunity to request a reasonable accommodation/modification. The Notice to All Applicants and Residents: Reasonable Accommodations and Modifications are available for Applicants and Residents with Mental and/or Physical Disabilities (“Notice”) is attached to this Policy and Procedures.
2. LHA Residents seeking accommodations/modifications may contact the LHA office at 617-552-5501.
3. The LHA is responsible for informing all residents that a request may be submitted for reasonable accommodations/modifications for an individual with a disability. All residents will be provided the Notice and the Request Form when requesting a reasonable accommodation/modification. *However, the Request Form cannot be required. A resident may otherwise submit the request in writing, orally, and at any time.* Upon receiving the request, the LHA will respond to the request within ten (10) business days. If additional information or documentation is required, a written request will be sent to the resident.
4. The LHA will approve or deny the request as soon as possible, but not later than thirty (30) days after receiving all needed information and documentation from the resident. All decisions to grant or deny reasonable accommodations/modifications will be communicated in writing or if required, in an alternative format to communicate the decision to the applicant/resident. Exceptions to the thirty (30) day period for notification of the LHA’s decision on the request should be provided to the resident in writing setting forth the reasons for the delay.
5. The LHA will maintain its offices written materials which summarize this Policy and highlights the Procedures for making a request for reasonable accommodation/modification.

### **PROCEDURE 2 - SEQUENCE FOR MAKING DECISIONS**

**STEP 1.** Is the applicant/resident a qualified “individual with a disability”?

- (a) If NO, the LHA is not obligated to make a reasonable accommodation/modification;

therefore, the LHA may deny the request.

- (b) IF YES, proceed to Step 2.
- (c) If more information is needed, the LHA will seek additional information as appropriate through communication with the resident.

**STEP 2.** Is the requested accommodation/modification related to the disability?

- (a) If NO, the LHA is not obligated to make the accommodation/modification; therefore, the LHA may deny the request.
- (b) If YES, proceed to Step 3.
- (c) If more information is needed, the LHA will seek additional information as appropriate through communication with the resident.

**STEP 3.** Is the requested accommodation reasonable? This determination will be made by following PROCEDURE 3 - GUIDELINES FOR DETERMINING REASONABLENESS, below.

- (a) If YES, the LHA will approve the request for reasonable accommodation/modification. A written description of the approved accommodation/modification will be sent to the resident by mail.
- (b) If NO, the LHA may deny the request.
- (c) If more information is needed, the LHA will seek additional information as appropriate through communication with the resident.

### PROCEDURE 3 -GUIDELINES FOR DETERMINING REASONABLENESS

1. In accordance with Section 6.1 of the Policy, the LHA will consider the requested method for providing reasonable accommodations/modifications for an individual with a disability. However, unless the disability-related need for an accommodation/modification is obvious or otherwise known to the LHA, the LHA may require the individual with a disability to provide further information to demonstrate the need for the requested accommodation to enable an equal opportunity to access, use, or enjoy the housing program or LHA services and activities. Additionally, the LHA may offer equally effective alternatives to the requested accommodation/modification, and/or alternative methods for providing the requested accommodation through the interactive process.

2. Requests for reasonable accommodation/modification will be considered on a case-by-case basis. Decisions regarding reasonable accommodations/modifications will be made in compliance with all applicable laws, regulations, and requirements. Additionally, in those circumstances where the LHA deems that a proposed reasonable accommodation/modification would fundamentally alter the service, program, or activity, or would result in undue financial and administrative burdens, the LHA has the burden of proving such result(s).

3. The responsibility for the decision that a proposed reasonable accommodation/modification would result in such alteration or burdens shall rest with the Executive

Director or his/her designee after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the LHA shall propose any other action that will not result in or require a fundamental alteration or financial and administrative burden as part of the interactive process.

4. Direct Threat. Generally, an accommodation is not required if it would pose a “direct threat” to the health and safety of other individuals or would result in substantial physical damage to the property of others. The LHA’s assessment of “direct threat” will be individualized and based on reliable objective evidence (*e.g.*, current conduct, or a recent history of overt acts). The LHA’s assessment will consider: (1) the nature, duration, and severity of the risk of injury; (2) the probability that injury will actually occur; and (3) whether there are any reasonable accommodations that will eliminate the direct threat. In evaluating a recent history of overt acts, the LHA will take into account circumstances, such as intervening treatment or medication, that have eliminated the direct threat (*i.e.*, a significant risk of substantial harm).

5. Verification. The LHA may generally verify a person has a disability only to the extent necessary to determine that the person: is qualified for the housing for which they are applying; is entitled to any disability-related preference or benefit they may claim; or has a disability-related need for a requested accommodation/modification in order to have an equal opportunity to enjoy the housing and/or participate in or benefit from the LHA’s activities, programs, or services.

In response to reasonable accommodation/modification requests, the LHA may not require verification of disability if the disability is obvious or otherwise known. The LHA also may not ask what the disability is or require specific details as to the disability. The LHA may require documentation of the disability-related need (*i.e.*, information showing that there is a relationship or nexus between the requested accommodation/modification and the individual’s disability or effects of the disability), unless such need is obvious or otherwise known. The LHA may not otherwise inquire into the nature or severity of the disability, require access to confidential records, or require specific types of evidence of disability or disability-related need.

6. Confidentiality. Information provided to the LHA in relation to a reasonable accommodation/modification request will be kept confidential and will not be shared with other persons unless they need the information to make or assess a decision to grant or deny a reasonable accommodation/modification request or unless disclosure is required by law.

#### 7. Additional Procedures: Appeals and Tenant Grievances

Tenants in both state and federal housing programs may grieve the LHA’s responses, decisions, or inaction with respect to a reasonable accommodation/modification request through the grievance process.



**ATTACHMENTS:**

Attachment 1 – Notice to All Applicants and Residents: Reasonable Accommodations and Modifications are Available for Applicants and Residents with Mental and/or Physical Disabilities

Attachment 2 – Request for Reasonable Accommodations/Reasonable Modifications

Attachment 3 – Verification of Disability by Physician or Other Professional for Reasonable Accommodation/Modification Request

## **Attachment 1: Notice of Availability of Reasonable Accommodations/Modifications**



### **Notice to All Applicants and Residents: Reasonable Accommodations and Modifications are Available for Applicants and Residents with Mental and/or Physical Disabilities**

Local Housing Authority (LHA) does not discriminate against applicants or residents on the basis of mental (including psychiatric) or physical disabilities. In addition, the LHA has an obligation to provide "reasonable accommodations" and "reasonable modifications" on account of a disability if a applicant or resident or a household member is limited by the disability and for this reason needs such an accommodation or modification. A reasonable accommodation is a change that the LHA can make to its rules, policies, practices, or services, and a reasonable modification is a change an LHA can make to its facilities (including physical alterations to the housing unit or public or common use areas) that will assist an otherwise eligible person with a disability to have equal opportunity to use and enjoy the housing or common or public use areas or to participate fully in the LHA's programs, activities, or services. Such changes may not be reasonable if they are not financially and programmatically feasible for the housing authority.

An applicant or resident household which has a member with a mental and/or physical disability must still be able to meet essential obligations of tenancy (for example, the household must be able to pay rent, to care for the apartment, to report required information to The LHA, and to avoid disturbing neighbors), but an accommodation or modification may be the basis by which the household is able to meet those obligations of tenancy.

The LHA has an Accommodation Coordinator. If you need an accommodation or modification because of a disability, please complete the attached form and return it to the LHA. Upon reasonable request by the LHA, you must also submit documentation verifying the existence of a disability and the disability-related need for the accommodation or modification. Within thirty (30) calendar days of receipt of your request and documentation, the Accommodation Coordinator will contact you to discuss what the LHA can reasonably do to provide you an accommodation or modification on account of your disability.

If you or a member of your household has a mental and/or physical disability, and as a result needs an accommodation or modification, you, the household member, or authorized representative, may request it at any time. However, you are not obliged to make such a request, and if you prefer not to do so that is your right.

**Attachment 2: Request for Reasonable Accommodations/Modifications Form**



**Request for Reasonable Accommodations/Modifications**

Applicant or Resident Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone #: \_\_\_\_\_

1. On account of my disability, I request the following be done in order to permit me to have equal opportunity to use and enjoy the housing or public or common use areas or to participate fully in the Housing Authority's programs, activities, or services: (Describe)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. This request for a reasonable accommodation/modification is necessary so that I can:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Documentation needed to verify the existence of my disability and my disability-related need for the accommodation/modification is attached. (Attach appropriate documentation)

I attest that the foregoing information is true and correct.

\_\_\_\_\_  
Signature of Applicant or Resident

\_\_\_\_\_  
Date

**Attachment 3: Verification of Disability by Physician or Other Professional for Reasonable Accommodation/Modification Request**



**Verification of Disability by Physician or Other Professional  
for Reasonable Accommodation/Modification Request**

Applicant or Resident Name: \_\_\_\_\_

Address: \_\_\_\_\_

Name of Physician or other professional: \_\_\_\_\_

Profession: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone #: \_\_\_\_\_

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**THE FOLLOWING TO BE COMPLETED BY PHYSICIAN (OR OTHER PROFESSIONAL):**

1. Based upon your knowledge, does the above-named applicant/resident have a physical or mental impairment which substantially limits one or more major life activities,\* or, do you have a record(s) of such an impairment for the above-named applicant/resident? Circle the appropriate answer:

Yes / No

\*Note: Determination of whether a physical or mental impairment substantially limits a major life activity is to be made without regard to the ameliorative effects of mitigating measures (e.g., assess substantial limitation of a major life activity, including the operation of a major bodily function, without considering the benefit of medication, assistive devices, etc., to the individual). Furthermore, an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

2. Does the applicant/resident have a disability-related need for the abovementioned reasonable accommodation(s)/ reasonable modification(s) based on the physical or mental impairment? Please explain\* your response.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\*Note: Please only provide information that demonstrates there is a relationship between a disability verified by a “yes” response to question 1 above and the need for the proposed reasonable accommodation/modification. Please do not otherwise provide information as to the nature or severity of the disability.

3. Other comments (please do not provide information that is not directly relevant to the reasonable accommodation(s)/reasonable modification(s)):

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CERTIFICATION: I certify that the information provided above represents my professional judgment and is true and correct to the best of my knowledge and belief.

\_\_\_\_\_  
Signature of Physician or Professional

\_\_\_\_\_  
Date: