

BILLERICA HOUSING AUTHORITY

ADOPTED BY THE BOARD OF COMMISSIONERS ON SEPTEMBER 2, 2021

FAIR HOUSING AND REASONABLE ACCOMMODATION POLICY

It is the policy of Billerica Housing Authority (BHA) to fully comply with all Federal, State and local nondiscrimination laws including the Americans with Disabilities Act and the U.S. Department of Housing and Urban Development and the Commonwealth of Massachusetts Department of Housing & Community Development regulations governing Fair Housing and Equal Opportunity. The BHA shall affirmatively further fair housing in the administration of its public housing programs. No person shall, on the grounds of race, color, sex, religion, national or ethnic origin, familial status, sexual orientation or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under BHA's programs. To further its commitment to full compliance with all applicable Civil Rights laws, the BHA will make available a copy of this policy as well as other Federal/State/local information to applicants/tenants of Public Housing Programs regarding anti-discrimination laws and any recourse available to them if they believe they may be victims of discrimination. In addition, all written information and advertisements will contain the appropriate Equal Opportunity language and logo.

For all aspects of the application, admission, lease, continued occupancy and grievance procedures, a handicap, or disabled person shall be granted Reasonable Accommodation to the extent necessary and feasible to provide the person with an opportunity to apply for, use, and occupy a dwelling unit equal to a non-handicapped or non-disabled individual. The BHA notifies each applicant/tenant that the applicant/tenant may at any time during tenancy request Reasonable Accommodation of a handicap or disability of a household member including Reasonable Accommodation so that an applicant/tenant can meet lease requirements or other requirements of tenancy.

I. DEFINITIONS OF DISABLED AND HANDICAPPED PERSONS

Section 504 of the Rehabilitation Act of 1973 is a national law that protects qualified individuals from discrimination based on their disability. Section 504 Federal Code of Regulation 24 CFR 8.3 defines a handicapped individual as follows:

1. A disabled person is defined as an individual with a handicap(s). This includes any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of the impairment(s); or is regarded as having such an impairment(s). For purposes of employment, this term does not include: any individual who is an alcoholic or

drug abuser whose current use of alcohol or drugs prevents the individual from performing the duties of the job in question, or whose employment, by reason of current alcohol or drug abuse, would constitute a direct threat to property or the safety of others; or any individual who has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, is unable to perform the duties of the job. For purposes of other programs and activities, the term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:

A. Physical or mental impairment includes:

B. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; urinary; hemic and lymphatic; skin and endocrine; or

C Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

D. Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

E. Has a record of such an impairment means has a history of, or has been classified as having, a mental or physical impairment that substantially limits one or more major life activities.

F. Is regarded as having an impairment means:

1. Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation.

2. Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or

3. Has none of the impairments defined in paragraph (A) of this section but is treated by a recipient as having such an impairment.

II. FAIR HOUSING AND NONDISCRIMINATION

The Billerica Housing Authority (BHA) shall not discriminate because of race, color, national origin, sex, religion, familial status, or disability in the leasing, rental, occupancy, uses, or other disposition of housing or related facilities. The BHA does not discriminate against persons with disabilities in its services and programs. It provides equal opportunity to all persons with disabilities and provides accommodations to meet the needs of persons with disabilities upon request if the accommodation is both reasonable and financially feasible. Section 504 requires that in making an accommodation, a federally assisted housing provider will be required to bear costs which do not amount to an undue financial and administrative burden. This means that such a housing provider may be required to spend money to provide legally required reasonable accommodations.

1. Compliance with Civil Rights

A. Civil rights laws protect the rights of applicants and residents to equal treatment by the BHA in operating its programs. It is the policy of the BHA to comply with all Civil Rights laws now in effect and subsequently enacted. A list of current Civil Rights laws and fair housing Executive Orders are referenced in this document.

B. The BHA shall not discriminate because of race, color, national origin, sex, religion, familial status, or disability in the leasing, rental, occupancy, use, or other disposition of housing or related facilities.

C. The BHA shall not deny admission to otherwise qualified applicants because of their membership in some group to which negative behavior may be imputed. Each applicant will be treated as an individual based on his or her attributes and behavior. (24CFR S960.203 (a))

D. The BHA shall not permit these policies to be subverted to do personal or political favors (24 CFR S206€)

III. REASONABLE ACCOMMODATION

People with disabilities may need a Reasonable Accommodation in order to take full advantage of the Billerica Housing Authority housing programs and related services. When such accommodations are granted, they do not confer special treatment or advantage for the person with a disability; rather, they make the program accessible to them in a way that would otherwise not be possible due to their disability. This policy clarifies how people can request accommodations and the guidelines the Billerica Housing Authority will follow in determining whether it is reasonable to provide a requested accommodation. Because disabilities are not always apparent, the Billerica Housing Authority will ensure that all applicants/tenants are aware of the opportunity to request Reasonable Accommodations.

The BHA shall provide a notice to each applicant/tenant that the applicant/tenant may, at any time during tenancy, request Reasonable Accommodation of a handicap/disability of a

household member, including Reasonable Accommodation so that an applicant/tenant can meet lease requirement or other requirements of tenancy.

1. The BHA, as a public agency that provides low rent housing to eligible families, has a legal obligation to provide “Reasonable Accommodations” to applicants and residents if they or any family members have a disability.
2. A Reasonable Accommodation is some modification or change the BHA can make to its units, buildings, or procedures that will assist an otherwise eligible applicant or resident with a disability to take full advantage of and use the BHA’s programs, including those that are operated by other agencies in BHA owned public space.
3. An accommodation is not reasonable if , according to federal regulations (24 CFRs 8.21 (b) and 24 CFR 8.24 (a)(2)).
 - A. it causes an undue financial and administrative burden; or
 - B. It represents a fundamental alteration to BHA’s program.
4. Examples of reasonable accommodations include but are not limited to: (24 CFR8.4)
 - A. Making alterations to a BHA unit to make it fully accessible so it could be used by a family member with a wheelchair;
 - B. Transferring a resident from a unit that cannot be made accessible to a unit that is accessible;
 - C. Widening the door of a community room or public restroom so a person in a wheelchair may use the facility;
 - D. Adding or altering unit or building features so they may be used by a family member with a disability, including but not limited to:
 - (1) Installing strobe-type flashing light smoke detectors in a unit for a family with a hearing-impaired member;
 - (2) Adding structural grab bars in the bathroom;
 - (3) Changing the doorknobs to lever type door handles;
 - (4) Modifying for an accessible kitchen;
 - (5) Providing accessible kitchen appliances;
 - (6) Installing a magnifier over the thermostat;
 - (7) Modifying for an accessible bathroom; and
 - (8) Lowering the peephole on the door.

- E. Making sure that the BHA processes are understandable to applicants and residents with sensory or cognitive impairments, including but not limited to: (24 CFR 8.6)**
- (1) Making large type documents, Braille documents, cassettes or a reader available to an applicant or resident with a vision impairment during interviews or meetings with BHA staff;**
 - (2) Making a sign language interpreter available to an applicant or resident with a hearing impairment during interviews or meetings with BHA staff;**
 - (3) Permitting an applicant or resident to be accompanied or represented by a family member, friend or advocate at all meetings and interviews with BHA if the individual desires such representation;**
 - (4) Permitting an outside agency or individual to assist an applicant or resident with a disability to meet the BHA's applicant screening criteria.**
- 5. An applicant or resident family that has a member with a disability must still be able to meet essential and undisputed obligations of tenancy (24 CFR 8.3). They must be able to:**
- A. Pay rent and other charges (e.g. utility bills) as required by the lease in a timely manner;**
 - B. Care for and avoid damaging the unit and common areas;**
 - C. Use facilities and equipment in a reasonable way;**
 - D. Create no health or safety hazards and to report maintenance needs to the office;**
 - E. Not interfere with the rights and peaceful enjoyment of others, and to avoid damaging the property of others;**
 - F. Not engage in prohibited criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents or staff; and not to engage in drug related criminal activity; and**
 - G. Comply with necessary and reasonable rules and program requirements of DHCD, HUD and the BHA.**
- 6. If an applicant or resident family member needs assistance with one of the essential obligations of tenancy, the BHA will, as a Reasonable Accommodation, make a referral to an individual or agency that can provide such assistance (24 CFR 8.20).**
- 7. If an applicant or resident receives a referral to an agency or individual who can assist the applicant or resident with complying with the essential obligations of tenancy, the**

applicant or resident is not obligated accept the service, but if refusing service results in a lease violation, the BHA may terminate the lease (24 CFR 8.20).

8. If an applicant or resident family has a disability and needs or wants a Reasonable Accommodation, it may be requested. (24 CFR 8.20)

9. If an applicant or resident would prefer not to discuss the situation with the BHA, that is his/her right.

10. **Communication with Persons with Disabilities**

A. BHA employees will communicate with all persons with disabilities in a manner that is understandable to them including the use of alternative communications.

B. If an applicant requests alternate forms of communication, the applicant's file is noted and all future communications (notices, letters, etc.) are provided in the appropriate format. The note explaining the alternate method of communication must always stay on top of the left side of the folder .

11. **Updating Resident information on Needs of Persons with Disabilities**

The BHA shall provide a notice to each applicant/tenant that the applicant/tenant may, at any time during tenancy, request Reasonable Accommodation of a handicap/disability of a household member, including Reasonable Accommodation so that an applicant/tenant can meet lease requirement or other requirements of tenancy.

A. People who formerly had no disability-related needs may become disabled after becoming BHA residents.

B. Each year, as part of the annual reexamination, staff asks every resident whether they need any special features in their units or other BHA owned facilities, and if they need any changes in procedures because they or someone in their family has a disability.

12. **Requests for Reasonable Accommodation from Applicants**

A. All applications include a Notice to entitled Reasonable Accommodations and Modifications that are available Applicants and Residents with Mental and/or Physical Disabilities and which indicates the availability of accommodations in order to apply for BHA Housing, the applicant can ask for assistance with the application. Some examples of the types of accommodation that might be needed include a sign language interpreter or assistance with reading and completing the application.

B. For any accommodation other than assistance in completing the application, an applicant may complete a Reasonable Accommodation Request form. Forms are available in the application for housing. They are also available at the BHA office at 16 River Street, Billerica, MA 01821. The BHA's Executive Director serves as our Accommodation Coordinator

and is the contact person at the BHA. An applicant may make a request for a form by telephone by calling the office at 978-667-2175 or pick up an application at the office. There is no requirement that the requester or their representative complete a form in order for there to be a Reasonable Accommodation.

C. The BHA will not ask for documentation of a disability when a disability is apparent. However, an applicant may be asked to provide confirmation about their disability from a medical professional or qualified service provider if the disability is not apparent. The medical professional or qualified service provider may also be asked to certify and explain how the accommodation requested is related to the disability and will be effective in accommodating the disability. It is important to meet any deadlines for requests for information. Failure to respond in a timely manner may result in the request being delayed or denied.

D. During the process of evaluating the request, BHA staff may request a meeting to discuss the requested accommodation. The meeting will be held at a location that is accessible to the applicant. An applicant may have a friend or advocate with them at the meeting. An applicant may also request a reader or sign language interpreter and one will be provided by the BHA.

E. BHA's Reasonable Accommodation Coordinator is the Executive Director and may be consulted at any time in the process. The Reasonable Accommodation Coordinator can be reached at 978-667-2175 and can help determine what kinds of accommodation are reasonable and what may work best. If an applicant has questions, doesn't understand the procedures, or is not sure what kind of accommodation might be available, they should contact the Executive Director.

13. Requests for Reasonable Accommodation from Residents

The BHA's Executive Director is the Reasonable Accommodation Coordinator for the BHA and may be consulted at any time by a resident in need of accommodation. The Reasonable Accommodation Coordinator can be reached at 978-667-2175. The Reasonable Accommodation Coordinator can help determine what kinds of accommodations are reasonable and what would work best for the resident. If a resident has questions about information that is requested, if they don't understand the procedures, or are not sure what kind of accommodation might be available, they should contact the Executive Director.

A. A resident who requests a change in rules, policies, procedures, or physical structures or type of unit because of a disability, will be given a Reasonable Accommodation/Modification Packet.

B. The resident will be asked to fill out the Reasonable Accommodation/Modifications Request Form and return it to the office. Once the resident returns the Reasonable Accommodation/Structural Modification Request Form, they will be

given a copy. There is no requirement that the requester or their representative complete a form for there to be a Reasonable Accommodation.

14. The Reasonable Accommodation Coordinator will consider the following:

A. Is the requester a person with disabilities? For this purpose, the definition of person with disabilities is different than the definition used for admission. The Fair Housing definition of person with disabilities is different than the definition used for admission. The Fair Housing definition used for this purpose is a person with a physical or mental impairment that substantially limits one or more major life activities and has a record of such impairment. (The disability may not be apparent to others, i.e., a heart condition). If the disability is apparent or already documented, the answer to this question is yes. It is possible that the disability for which the accommodation is being requested is a disability other than the apparent disability. If the disability is not apparent or documented, the Billerica Housing Authority will obtain verification that the person is a person with a disability.

B. Is the requested accommodation related to the disability? If it is apparent that the request is related to the apparent or documented disability, the answer to this question is yes. If it is not apparent, the Billerica Housing Authority will obtain documentation that the requested accommodation is needed due to the disability. The Billerica Housing Authority will not inquire as to the nature of the disability.

C. Is the requested accommodation reasonable? In order to be determined reasonable, the accommodation must meet two criteria:

1. Would the accommodation constitute a fundamental alteration? The Billerica Housing Authority's business is housing. If the request would alter the fundamental business that the Billerica Housing Authority conducts, that would not be reasonable. For instance, the Billerica Housing Authority would deny a request to have the Billerica Housing Authority do grocery shopping for a person with disabilities.

2. Would the requested accommodation create an undue financial hardship or administrative burden? Frequently the requested accommodation costs little or nothing. In evaluating the request, the Billerica Housing Authority may request a meeting with the individual to investigate and consider equally effective alternatives. If more than one accommodation is equally effective in providing access to the Billerica Housing Authority's programs and services, the Billerica Housing Authority retains the right to select the most efficient or economic choice. The cost necessary to carry out approved requests, including requests for physical modification, will be borne by the Billerica Housing Authority. Any request for an accommodation that would enable an applicant/tenant to materially violate essential lease terms will not be approved, i.e. allowing nonpayment of rent, destruction of property, disturbing the peaceful enjoyment of others, and so forth.

IV. PROCEDURE TO REQUEST REASONABLE ACCOMMODATION:

- 1. The BHA will obtain the request for accommodation in writing or verbally. BHA will use the Request for Reasonable Accommodation/Modifications form to ensure that all parties agree on the accommodation that has been requested and that documentation of the request exists for future reference. If applicant/tenant cannot fill out Reasonable Accommodation form, the BHA will assist in filling out form to ensure documentation of verbal request.**
- 2. Applicants or Residents must provide verifications from a third party for requests if their disability is not apparent. For example, when a resident who uses a wheelchair requests an assigned parking space close to the resident's front door, the resident's disability and need for the accommodation is obvious and third-party verification is unnecessary.**
- 3. Requests for Reasonable Accommodations will be addressed within 30 days.**
- 4. The BHA will to the greatest extent feasible ensure consistency in their review of and response to requests for accommodation.**
- 5. No request for accommodation should be rejected without first offering an alternative accommodation in writing rather than merely rejecting the request if possible.**
- 6. The Executive Director will determine if the request for accommodation is reasonable and feasible before issuing a determination to the applicant/tenant.**
- 7. The final determination decision and resulting actions will be provided in a letter to the requestor.**
- 8. The BHA will keep a list of all Reasonable Accommodations made at each development for future use.**