

April is Fair Housing Month. Housing complaints related to requests for reasonable accommodation and/or reasonable modifications represent the highest number of complaints filed at both the federal and state level. This month's issue is dedicated to providing helpful information on these two topics. As always, call with questions. We are here to help. - Karen Richards

*"Home is the nicest word there is."*

*- Laura Ingalls Wilder*



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## Did you know?

Apartments, Condominiums, Mobile Home Parks, Single Family Homes, Co-operatives, Shelters and Motels (sometimes) are covered under Fair Housing Law?

An assistance animal is not required to be individually trained or certified.

The Fair Housing Act's protections include buyers and renters who live or are associated with an individual with a disability.

Some non-visible disabilities include, but are not limited to: mental illness, cancer, heart disease, diabetes, HIV, alcoholism and drug addiction (not including current, illegal use of a substance).

It is unlawful to refuse reasonable accommodations or modifications to individuals with disabilities that would deny equal opportunity to use and enjoy a dwelling.

Housing providers are defined as those being involved with housing related transactions to include, but are not limited to: landlords, sellers, brokers, real estate agents, lenders, insurance agents, property managers and maintenance staff.

The [U.S. Department of Housing and Urban Development \(HUD\)](#) is the federal executive department with enforcement authority of the Fair Housing Act.

A reasonable modification is a structural change made at the expense of the tenant unless the building is federally subsidized. In that case the housing provider is responsible for the cost.

A reasonable accommodation is an alteration or exception in a policy, practice or procedure with no expense to the tenant.



## Reasonable Accommodations

Under the federal [Fair Housing Act](#), individuals with disabilities may make requests for [reasonable accommodations](#) to “afford a person with a disability equal opportunity to use and enjoy a dwelling.” These requests are generally an alteration or exception to a policy, practice or procedure such as accessible parking, live-in aides or assistance animals. An individual with a disability does not have to make a request in writing regardless of any formalized process the housing provider may have. Once a reasonable accommodation request is made, the housing provider must respond in a timely manner; failure to respond within a reasonable time is considered a denial.

The federal [Fair Housing Act](#) “defines a person with a disability to include (1) individuals with physical or mental impairments that substantially limit one or more major life activity; (2) individuals who are regarded as having such an impairment; and (3) individuals with a record of such an impairment.” A property owner cannot request verification of a disability IF the disability is obvious. If the disability is not obvious or visible, a third party who has knowledge if the individual’s disability may provide verification of the disability. This does not mean the nature of the disability must be disclosed, nor is it necessary that the verification be provided by a medical professional.

Reasonable accommodations are necessary for an individual with a disability when there is an ‘identifiable relationship’ (connection or nexus) between the request and the individual’s disability. A housing provider cannot charge an individual with a disability extra fees or deposits as a condition for approval of an accommodation request.

The only time a reasonable accommodation request can be denied is if the request was not made by or for an individual with a disability; if there is no nexus with the disability; or if the request is not reasonable. Not reasonable means that granting it would cause an undue financial and administrative burden or fundamentally alter the nature of the housing provider’s business.

Before denying a reasonable accommodation request, a housing provider should discuss alternative accommodation options with the individual.



### **Reasonable Modifications**

A [reasonable modification](#) request is very similar to a reasonable accommodation request in that the purpose is to “afford a person with a disability equal opportunity to use and enjoy a dwelling.” However, unlike an accommodation, a modification is a structural change that is generally made at the expense of the requestor. The exception is that housing providers who receive federal housing assistance are responsible for the cost of any modifications. Modifications are not limited to the interior of a dwelling and can include modifications to common areas and/or to exterior areas of a building to provide full access.

Some examples of reasonable modifications include, but are not limited to: installation of a wheelchair ramp, widening of doors to allow for wheelchair access, installation of grab bars or a chair lift, and installation of flashing alarms (for a Deaf or Hard of Hearing individual).

It is unlawful to deny an individual with a disability a reasonable modification request, however if the dwelling is a rental in some limited circumstances the landlord may ask the tenant to restore the premises to its original state. Further, if the modification is to be used solely by the individual making the request and it is not a ‘shared’ modification (such as an exterior ramp for use by an entire building complex), maintenance of the modification is the responsibility of the tenant and not the landlord.

Any individual meeting the definition of a person with a disability under the federal Fair Housing Act is entitled to request a reasonable modification. As with an accommodation request there is no formalized process with regard to how the request is made but to avoid misunderstanding it is recommended that it be in writing. The housing provider can deny a modification request if there is no nexus between the individual’s disability and the modification. For example, flashing alarms probably would not be a necessary modification for a non Deaf or Hard of Hearing individual and the request could be denied.

When considering a reasonable modification request a housing provider can ask for information necessary to determine if the relationship between the disability and modification is necessary to afford equal opportunity. A housing provider is not entitled to request medical records or documentation of that nature and should not do so. Any information that is voluntarily provided for consideration of a modification is confidential and should not be shared. As with an accommodation request, if a person’s disability is obvious or known and the need for the request is apparent, then the housing provider cannot request additional information about the disability or the need for the modification.

It is the obligation of the requestor to have the housing provider’s permission prior to making any modifications to the interior or exterior of the dwelling or building. The provider can ask for assurances that the work will be performed in a workmanship manner but cannot insist on using its own contractor. It is the housing provider’s responsibility to timely respond to a request; failure to do so could be considered a denial.



- If a person's disability is obvious (i.e. visible) , there is no need to provide verification or additional information to a housing provider when requesting a reasonable accommodation or modification.
- A request for an accessible parking space is considered a reasonable accommodation request, not a reasonable modification.
- Multifamily dwellings built after March 13, 1991 must meet [minimum accessibility and adaptability standards](#).
- Requests for reasonable accommodations or reasonable modifications can be made at any point during tenancy.
- Failure by a housing provider to promptly respond to a reasonable accommodation or reasonable modification request is considered a denial.
- The federal Fair Housing Act provides protection from discrimination for individuals with a disabilities as well as anyone associated with them.
- Owner-occupied buildings with four or fewer units are exempt under the federal Fair Housing Act. In Vermont, a building with three or fewer units is exempt IF it is occupied by the owner or a member of the owner's immediate family.
- If denying a reasonable accommodation or modification request, a housing provider must engage in an interactive process to determine whether there is some other way to provide an accommodation or modification that will address equal access issues.
- Although the Fair Housing Act does not have specific requirements as to how or when a reasonable accommodation request is made, to avoid misunderstanding both requests and any decision granting or denying a request should be in writing.
- It is unlawful for a housing provider to ask about the nature, or specifics related to, an individual's disability for anyone seeking residence in a dwelling.

## Contact Us

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## RESOURCES

[Vermont Human Rights Commission](#)

[9 V.S.A. §4503 Unfair housing practices](#)

[U.S. Department of Justice](#)

[CVOEO Fair Housing in Vermont\\_pamphlet](#)

[U.S. Department of Housing and Urban Development](#)

[Joint Statement of HUD & DOJ—Reasonable Modifications Under Fair Housing Act](#)

[Vermont Legal Aid](#)

[Fair Housing Laws and Executive Orders](#)

[Champlain Valley Office of Economic Opportunity](#)

[Joint Statement of HUD & DOJ—Reasonable Accommodations Under the Fair Housing Act](#)