**SECTION 56** – **SAMPLE REASONABLE ACCOMMODATION POLICY**

**56.1 PURPOSE.** It is the policy of the Town of \_\_\_\_\_\_\_\_\_\_\_, pursuant to the Fair Housing Amendments Act of 1988 (“Fair Housing Act” or “FHA”), and the Americans with Disabilities Act, to provide to people with disabilities reasonable accommodation in rules, policies, practices, and procedures, including reasonable accommodations to zoning regulations that may be necessary to ensure equal housing opportunities. The purpose of these provisions is to provide a process for making requests for reasonable accommodation to land use and zoning decisions, regulations and procedures regulating the siting, funding, development and use of housing for people with disabilities. In these regulations, "use of housing" includes, but is not limited to, housing-related supports or services and the use and enjoyment of the property.

 Any and all officials, employees, agents, boards, or commissions of the Town of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ involved in the application, review, consideration, and/or enforcement of the terms and conditions of the reasonable accommodation policy contained herein shall be guided by, and shall adhere to, the criteria set forth in Section 56.2 (b) below and the requirements of the Fair Housing Act, which take precedence over conflicting state and local laws.

 Nothing in these Regulations shall require persons with disabilities or operators of homes for persons with disabilities acting or operating in accordance with applicable zoning or land use laws or practices to seek a reasonable accommodation under these Regulations.

**56.2 PROCEDURE.**

a. Requests for reasonable accommodation shall be made to the \_\_\_\_\_\_\_\_\_\_\_\_\_ Zoning Enforcement Officer who shall issue a written decision within thirty (30) days of the date of the request and may grant the reasonable accommodation request with or without modification or deny the request. Such requests may be made on a form provided by the Zoning Enforcement Officer.

b. The Zoning Enforcement Officer shall consider narrowly defined criteria when deciding whether a requested accommodation is reasonable, consistent with the FHA, such as: (i) is the housing, which is the subject of the request for reasonable accommodation, to be used by an individual or group of individuals protected under the FHA; (ii) is the request for accommodation necessary to make specific housing available to an individual or group of individuals protected under the FHA; (iii) whether the requested accommodation does not pose an undue hardship or a substantial burden on the municipality; and (iv) whether the requested accommodation requires a fundamental alteration of the Town’s zoning scheme.

c. If necessary to reach a decision on the request for reasonable accommodation, the Zoning Enforcement Officer may request further information from the applicant consistent with the FHA, tailored to the particular factors in Section 56.2(b) above, and specifying in detail what information is required. The Zoning Enforcement Officer will not inquire into the nature or severity of a person's disability or require confidential medical records or information. However, the Zoning Enforcement Officer may request reliable disability-related information that (1) is necessary to verify that the person meets the Fair Housing Act and/or Americans with Disability Act's definition of "disability", (2) describes the needed accommodation, and (3) shows the relationship between the person's disability and the need for the requested accommodation. Depending on the individual's circumstances, information verifying that the person meets the FHA’s and/or ADA’s definition of disability can usually be provided by the individual but also may come from a doctor or medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability. Once the Zoning Enforcement Officer has established that the applicant meets the definition of a person with a disability, such official shall seek only the information necessary to evaluate if the request is needed because of a disability.

d. The written decision of the Zoning Enforcement Officer on the request for reasonable accommodation shall explain in detail the basis of the decision, including the designated findings on the criteria set forth in Section 56.2(b) above.

e. All written decisions shall give notice of the right to appeal and to request reasonable accommodation in the appeals process as set forth in Section 56.2(f) below.

f. Appeals of the decision regarding a request for accommodation shall be conducted in accordance with the following procedures:

(i) Within thirty (30) days of the date of the written decision, the applicant may appeal an adverse decision to the \_\_\_\_\_\_\_\_\_\_\_\_ Fair Housing Enforcement Officer in writing and may utilize the Appeal of Decision on Fair Housing Accommodation Request form (“Appeal Form”), which shall be provided by the Zoning Enforcement Officer.

(ii) An applicant may request reasonable accommodation to the procedure by which an appeal will be processed. If an applicant needs assistance in filing an appeal, the Town shall provide the assistance that is necessary to ensure that the appeal process is accessible to the applicant, including by transcribing a verbal request for an appeal into a written request.

(iii) An applicant shall state the grounds for the appeal on the Appeal Form or in such other appeal document used by the applicant.

(iv) When an appeal is filed with the \_\_\_\_\_\_\_\_\_\_\_\_ Fair Housing Enforcement Officer, such Officer shall issue a written decision on such appeal within 30 days of the filing of the appeal.

(v) In reaching a decision on the appeal, the Fair Housing Enforcement Officer shall determine whether the decision was consistent with the FHA, and the applicable criteria in evaluating a reasonable accommodation request as set forth in Section 56.2(b) above. The Fair Housing Enforcement Officer shall consider: (i) the applicant's initial reasonable accommodation request; (ii) the written decision at issue; (iii) the applicant's written appeal; and (iv) the provisions in this Regulation to determine whether the decision was consistent with the FHA and the requirements of this Regulation. The Fair Housing Enforcement Officer’s decision shall include the basis for their determination.

(vi) The decision on the appeal shall be issued to the applicant in writing.

(vii) If a written decision on the appeal is not rendered within thirty (30) days from the date the appeal was filed, as required in Section 56.2 (f) (iv) above, the accommodation request shall be deemed granted.

g. The person or entity requesting an accommodation may file an action at any time in court to challenge the Town's denial of a reasonable accommodation under the FHA, ADA, or any other applicable federal, state or local law. Such persons or entities shall not, solely by virtue of having requested an accommodation under this Regulation, be barred, estopped or otherwise limited in bringing an action in court against the Town to challenge the denial of a reasonable accommodation.