



City of South Bend, Indiana

Reasonable Accommodations

Policies and Procedures

In

Zoning and Land Use Decisions

2014 (As Updated August 2018)

City of South Bend, Indiana
Reasonable Accommodations Policies and
Procedures in Zoning and Land Use Decisions

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South Bend Common Council Resolution #4418-15 Establishing Reasonable Accommodation Policies and Procedures in Zoning and Land Use Decisions within the City of South Bend
Joint Statement of the Department of Housing and Urban Development and the Department of Justice – *Reasonable Accommodations under the Fair Housing Act.*
Joint Statement of the Department of Justice and the Department of Housing and Urban Development – Group Homes, Local Land Use, and the Fair Housing Act.



City of South Bend, Indiana Reasonable Accommodations Policies and Procedures in Zoning and Land Use Decisions

Introduction.

The City of South Bend, Indiana, acknowledges that it has an affirmative duty to make reasonable accommodations in its land use and zoning regulations and practices so that persons with disabilities have an equal opportunity to live in dwellings of their choice. The failure to offer reasonable accommodations may be a violation of the federal American with Disabilities Act, 42 *United States Code* §§ 12102 *et seq.*, and the federal Fair Housing Act, 42 *United States Code* §§ 3601, *et seq.*

The following policies and procedures explain the process and the standards used by the City of South Bend, Indiana, in order to provide reasonable accommodations to individuals with disabilities. These policies and procedures are intended as guidelines to assist the City officials when providing reasonable accommodations; as well as providing information to persons who request reasonable accommodations and to all members of the public. These policies and procedures may be revised, supplemented and updated consistent with all applicable federal laws.

There shall be no application fee required to request a reasonable accommodation under the City's Reasonable Accommodations Policies and Procedures. Any information related to a disability status and identified by a person requesting a reasonable accommodation as confidential shall be retained in a manner so as to respect the privacy rights of such individual making the request.

The City of South Bend, Indiana, shall post on the City's website at www.southbendin.gov its *Reasonable Accommodations Policies and Procedures in Zoning and Land Use Decisions* and make these policies and procedures available to the public at the Office of the City Clerk, the Building Department, the offices of the Area Plan Commission, and the Human Rights Commission.

Definitions.

For purposes of these Reasonable Accommodations Policies and Procedures:

1. "ADA" means Title II of the federal Americans with Disabilities Act, 42 *United States Code* §§ 1201 *et seq.*

2. “**Area Board of Zoning Appeals (ABZA)**” means the board identified in the City’s zoning ordinance, *South Bend Municipal Code* § 21-11.02
3. “**Building Department**” means the executive department established to perform administrative functions as set forth in *South Bend Municipal Code* § 2-13.
4. “**City**” means the City of South Bend, Indiana.
5. “**Dwelling**” means any building, or portion of a building which is designed or used primarily for residential purposes as further addressed in *South Bend Municipal Code* § 21-11.02.
6. “**FHA**” means the federal Fair Housing Act, 42 *United States Code* §§ 3601 *et seq.*
7. “**Major life activity**” means any task central to a person’s daily life, including but not limited to caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning or working, as this phrase may be interpreted by applicable federal judicial decisions and federal regulations.
8. “**Person with a disability**” means any person who:
 - a. Has a physical or mental impairment that substantially limits one (1) or more major life activities; or
 - b. Has a record of having such impairment.
9. “**Physical or mental impairment**” includes but is not limited to orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, emotional illness, learning disabilities, HIV disease, tuberculosis, drug addiction (except illegal drugs) and alcoholism; and shall include changes hereafter as may be required by federal law. Short term, temporary health conditions shall not be included.
10. “**Reasonable accommodation**” means a modification or a waiver of zoning requirements, rules, policies or practices if the modification or waiver is reasonable and necessary to give a person with disabilities an equal opportunity to use and enjoy a dwelling.
11. In the definition of “**reasonable accommodation**”:
 - a. “**Necessary**” means that without the accommodation, the person requesting the accommodation would not be able to live in the dwelling of his or her choice.
 - b. “**Reasonable**” means that the accommodation will not create an undue financial or administrative burden for the City and will not fundamentally alter the land use and zoning plan of the City.

12. “**Zoning Administrator**” means the individual designated as having the responsibility for the interpretation and administration of the City’s zoning ordinance as further addressed in *South Bend Municipal Code* § 21-11.02.

Policies.

1. Reasonable Accommodation Policy.

The City is committed to providing, in accordance with the law, reasonable accommodations to persons with disabilities in order to give those individuals an equal opportunity to live in the dwellings of their choice. The policy of the City is to fulfill this commitment to provide persons with disabilities an equal opportunity to use and enjoy housing in the City.

This policy establishes a procedure for making requests for reasonable accommodation in zoning, land use and building regulations, rules, policies, practices and procedures of the City of South Bend, Indiana to comply fully with all applicable federal and state laws.

2. Authority and Duty to Provide Reasonable Accommodations.

The following federal laws authorize and require the City to provide reasonable accommodations:

- a. The FHA makes it unlawful for the City to make unavailable or to deny a dwelling to any person because of that person’s disability, pursuant to 42 *United States Code* § 3604 (f). A reasonable accommodation should be considered when the accommodation is necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling pursuant to this same section of the *United States Code*, and when the person requesting the reasonable accommodation complies with the procedures set forth in this policy.
- b. The ADA makes it unlawful for the City to discriminate against persons with disabilities or to deny persons the benefits of services, programs, or activities because of the person’s disabilities, pursuant to 42 *United States Code* § 12132. A reasonable accommodation should be considered when the accommodation is reasonable and necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling pursuant to this same section of the *United States Code*, and when the person requesting the reasonable accommodation complies with the procedures set forth in this policy.

3. General Principles for Providing Reasonable Accommodations.

- a. The City shall grant a request for a reasonable accommodation whenever the accommodation is necessary and reasonable, with further procedures set forth below.
- b. Requests for reasonable accommodations shall be evaluated on a fact-specific, case-by-case basis.

- c. Requests for reasonable accommodations shall be an interactive process between the City and the person requesting the accommodation.
- d. Requests for reasonable accommodations will be decided by the Zoning Administrator.

Procedures.

1. Reviewing Authority and Summary of Process.

- a. Requests for reasonable accommodation shall be received and reviewed by the Zoning Administrator.
- b. The Zoning Administrator shall have the following additional authority:
 - i. To conduct an ongoing review of the application of Area Plan Department rules, policies, practices or procedures and their compliance with federal laws referenced herein;
 - ii. To consult on a regular basis with the Area Plan Commission Executive Director the results of such ongoing reviews so that zoning and land use best practices are utilized and are consistent with federal laws referenced herein;
 - iii. To provide advisory recommendations to the Common Council's Zoning and Annexation Committee.
- c. The Zoning Administrator shall issue a written decision on a request for reasonable accommodation within thirty (30) days of the date of the application and may either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with the City's Reasonable Accommodation Policies and Procedures in Zoning and Land Use Decisions.
- d. In the event that the Zoning Administrator finds it necessary to request additional information from the applicant, the thirty (30) day period to issue a decision is stayed for a period of up to fifteen (15) days after the applicant fully responds to the request, or thirty (30) days from receipt of the application, whichever is later.
- e. In granting a request for reasonable accommodation, the Zoning Administrator may impose conditions of approval which are deemed necessary and reasonable to ensure that the reasonable accommodation(s) would comply with the findings. For example, conditions may be imposed to ensure that any removable structures or physical design features that are constructed or installed in association with the reasonable accommodation be removed once those structures or physical design features are not necessary to provide access to the dwelling unit.

- f. While a request for a reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.
- g. Within fifteen (15) days of the date of the Zoning Administrator’s written decision, an individual may appeal an adverse decision. Appeals from the adverse decision shall be made in writing and submitted to the Area Board of Zoning Appeals for de novo review in the same manner as for other appeals.¹
 - i. All appeals must contain a statement of the grounds of the appeal. Any information related to a disability status and identified by the applicant as confidential shall be retained in a manner so as to respect the privacy of the rights of the applicant.
 - ii. No fees shall be charged by the Area Board of Zoning Appeals for review of reasonable accommodation decisions.
 - iii. The Area Board of Zoning Appeals shall hold a public hearing on the appeal within forty-five (45) days of receipt of an appeal or at the next regular ABZA meeting whichever occurs first. Their decision shall be final with their written decision being mailed to the appealing party within five (5) days of the appeal hearing. Written decisions of the Area Board of Zoning Appeals shall include the factual basis for their decision by addressing the issues identified in Section 2 below entitled “Evaluating a Request for a Reasonable Accommodation”.
 - iv. The above appeal process is not an exclusive remedy, and nothing in the appeal procedure shall preclude an aggrieved individual from seeking any other remedies in a court of competent jurisdiction or federal remedies as provided by law and which are further addressed in Attachment # 5.

2. Evaluating a Request for a Reasonable Accommodation.

- a. In making determinations of reasonable accommodation, the Zoning Administrator and the Area Board of Zoning Appeals shall consider and make findings as to the evidence provided by the person requesting a reasonable accommodation of each of the following items:
 - i. Whether the person or persons who are requesting to live in the dwelling are persons with disabilities;

¹ *Indiana Code* § 36-7-4-918.1 gives the area board of zoning appeals the authority to “...hear and determine appeals from and review any order, requirement, decision, or determination made by an administrative official, hearing officer, or staff member under the zoning ordinance...”

- ii. Whether the accommodation is necessary, as further addressed in ¶ 5 below; and
 - iii. Whether the accommodation is reasonable, as further addressed in ¶ 6 below.
 - b. In order to review a request for a reasonable accommodation, Attachment # 1 must be completed and filed by the person requesting an accommodation.
 - c. In order to deny a request for a reasonable accommodation, the Zoning Administrator is required to complete and send Attachment # 5 to the person requesting a reasonable accommodation
3. Making the Process Accessible.
- a. To make sure that the process for requesting a reasonable accommodation is accessible, the office of the Zoning Administrator shall help any person who needs assistance during the process of requesting an accommodation. For example, if a person wishing to file a request is unable to read or complete the application form (Attachment # 1), that office of the Zoning Administrator shall help the person to provide the required information on the form so that the application may be filed.
 - b. Pursuant to Title 28, § 35.160 of the *Code of Federal Regulations*, the City is required to “furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity” to make a request for a reasonable accommodation. For example, a person wishing to file a request may request that written documents be provided in alternative formats such as large print or by alternate means such as verbal communication, or in other languages.
4. Obtaining More Information from a Person Requesting a Reasonable Accommodation.
- a. If the Zoning Administrator needs more information to evaluate a request for a reasonable accommodation, he or she may require the applicant to supply additional information.
 - b. To obtain additional information, the Zoning Administrator may:
 - i. Request the person(s) who are requesting to live in the dwelling are persons with disabilities for additional information by asking such applicant(s) to complete Attachment # 2;
 - ii. Meet with the applicant in person or by telephone or an equally effective means of communication; or
 - iii. Inspect the dwelling that is subject to the request to ensure that granting the request will not violate the minimum space and maximum occupancy requirements which are applied to similarly sized single-family dwellings, using Attachment # 3 to arrange such inspection.

- c. The Zoning Administrator may verify the applicant’s disability status using the application form (Attachment # 1), however may not request the Applicant’s medical records of any specific information about the nature or severity of the applicant’s medical condition.

5. Guidelines for Determining “Necessity”.

- a. The accommodation is necessary if, without the accommodation, the person with a disability would not have an “equal opportunity” to live in the dwelling of his or her choice.
- b. A person would not have an “equal opportunity” to live in a dwelling if, without the reasonable accommodation:
 - i. The person seeking the reasonable accommodation would be excluded from a neighborhood.

6. Guidelines for Determining “Reasonableness”.

- a. An accommodation is “reasonable” if it:
 - i. Does not create an undue financial or administrative burden for the City; and
 - ii. Will not fundamentally alter the City’s approved Comprehensive Plan also commonly referred to as City Plan², and any approved neighborhood plan, all of which are on file in the Office of the City Clerk
- b. An undue financial or administrative burden analysis consists of
 - i. Determining whether the request for a reasonable accommodation will cause significant and identifiable financial costs to the City.
 - ii. A waiver or modification of zoning requirements generally is not an undue burden if it does not impose any concrete, identifiable financial cost(s) to the City. An example of a waiver would be where a person requests a reasonable accommodation to allow an exception to a setback requirement so that a wheelchair ramp may be constructed to gain access to his or her dwelling.
- c. A fundamental alteration analysis³ consists of:

² The South Bend Common Council adopted Resolution No. 3657-06 on November 13, 2006, which approved the Comprehensive Plan.

³ 28 *Code of Federal Regulations* § 35.130(b)(7) requires a public entity to make reasonable modifications in policies, practices or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that the modifications would fundamentally alter the nature of the service, program, or activity. *Wong v. Regents of the Univ. of Cal.*, 192 F. 3d 807 (1999) notes that the “issue of reasonableness depends on the individual circumstances of each case, [with] this determination requiring a fact-specific, individualized analysis of the disabled individual’s circumstances...”

- i. Based on analysis, a requested accommodation may be unreasonable if it would substantially change the nature of the zoning plan.
- ii. The analysis is based on a fact-specific, case-by-case analysis and determination.
- iii. The analysis takes into consideration the guidance from the U.S. Department of Justice and the U.S. Department of Health and Human Services that “what is reasonable in one circumstance may not be reasonable in another”.⁴

⁴ See: “Joint Statement of the U.S. Department of Justice and the U.S. Department of Housing and Urban Development, Group Homes, Local Land Use, and the Fair Housing Act”, set forth in the Appendix.
http://www.usdj.gov/crt/housing/final8_1.htm.

Attachments:

The City has developed a series of forms which are set forth as Attachments. These forms are to be regularly reviewed and updated by the City as the law requires. Forms are to ensure consistency of implementation and enforcement of the policies and procedures addressed herein.

Note: These Policies and Procedures were updated in February 2018 to reflect the change in the City's Departmental structure effective January 2018, in which certain Building Department/Director responsibilities for the City were transferred to the St. Joseph County Area Plan Commission/Director. An additional question was also added to the application form.



**City of South Bend, Indiana
Reasonable Accommodations Attachment # 1**

APPLICATION FORM TO REQUEST A REASONABLE ACCOMMODATION

A reasonable accommodation is any modification of a zoning rule, policy, practice or procedure if the modification is reasonable and necessary in order to give a person with disabilities* an equal opportunity to use and enjoy a dwelling in the City of South Bend, Indiana.

If you believe that you need a reasonable accommodation to live in a dwelling, or so that persons with disabilities may live in a dwelling that you own or operate, please complete this application form and return it to:

Zoning Administrator
c/o Area Plan Commission
227 W. Jefferson Boulevard, Suite 1140
South Bend, Indiana 46601

Please attached additional pages if necessary. If you have questions or need assistance, please call the Area Plan Commission (574) 235-9571 or fax the Area Plan Commission at (574) 235-9813.

Name and Contact Information of Applicant:

Name: _____

Relationship to Property: Owner____ Contract Purchaser____ Tenant____ Mortgagee____
Other (Describe) _____

Street Address: _____

City, IN Zip Code: _____

Telephone: Landline:_____ Cell:_____

Email address: _____

Are the persons who currently live at the dwelling persons with disabilities? ____Yes ____No

Are the persons who plan to live at the dwelling persons with disabilities? ____Yes ____No

If you answered yes, you must submit the verification of disability status form below.

*A person with a disability is anyone who has a physical or mental impairment that substantially limits one (1) or more major life activities; or has a record of having such impairment.



City of South Bend, Indiana
Reasonable Accommodations Attachment # 1 – page 2 of 5

APPLICATION FORM TO REQUEST A REASONABLE ACCOMMODATION

Information about Property Subject to Reasonable Accommodation:

1. Street Address: _____

City, IN Zip Code: _____

2. Tax Identification Number: _____

3. Is there a contingent purchaser? ____ Yes ____ No. If answered yes, complete the following:

Name of contingent purchaser: _____

Street Address: _____

City, IN Zip Code: _____

Telephone: Landline: _____ Cell: _____

Email address: _____

4. If the person requesting a reasonable accommodation is making such request on behalf of an entity other than a natural person, the following information is required:

Name of entity registered with the Indiana Secretary of State: _____

Agent of record with Indiana Secretary of State: _____

Street Address: _____

City, IN Zip Code: _____

Telephone: Landline: _____ Cell: _____

Employer Identification Number: _____

South Bend City License/Permit Number: _____

Reasonable Accommodations Attachment # 1 – page 3 of 5

5. Current use and zoning classification of the property:

6. Describe the accommodation which you are requesting. What zoning rule, policy, practice or procedure would you like the City to waive for the property?

7. Why do you need the accommodation? In other words, why is the accommodation necessary in order for all resident person(s) with qualified disabilities (excluding staff) to live at the property?

8. Is the dwelling licensed by the State of Indiana? If yes, please identify the type of license and attach a copy of it.

9. If you are requesting an accommodation in order to house more than two (2) unrelated persons in a zoned single family dwelling, answer the following:

Number of residents who will live in the dwelling: _____

Number of required staff who will live in the dwelling: _____

Square footage of the dwelling: _____

Number of bedrooms in the dwelling: _____

For each bedroom, the floor where it is located, square footage, number and size of each window:

Bedroom # 1: _____

Bedroom # 2: _____

Bedroom # 3: _____

Bedroom # 4: _____

Bedroom # 5: _____

→ Please attach the same information for any additional bedrooms.

10. How many persons who are expected to reside in the property possess or are likely to possess an automotive vehicle to be parked on or near the dwelling? _____

Reasonable Accommodations Attachment # 1 – page 4 of 5

Complete the following for each bathroom/restroom:

1: Square footage: _____ 1st Floor_____ 2nd Floor_____ Basement _____

Shower: ___Yes ___No Handheld Attachment locations_____

Bathtub: ___Yes ___No Handheld Attachment locations_____

Call cord: ___Yes ___No

Description of other specialized safety features:

2: Square footage: _____ 1st Floor_____ 2nd Floor_____ Basement _____

Shower: ___Yes ___No Handheld Attachment locations_____

Bathtub: ___Yes ___No Handheld Attachment locations_____

Call cord: ___Yes ___No

Description of other specialized safety features:

3: Square footage: _____ 1st Floor_____ 2nd Floor_____ Basement _____

Shower: ___Yes ___No Handheld Attachment locations_____

Bathtub: ___Yes ___No Handheld Attachment locations_____

Call cord: ___Yes ___No

Description of other specialized safety features:

→ Please attach the same information for any additional bathrooms/restrooms.

Reasonable Accommodations Attachment # 1 – page 5 of 5

I affirm under penalty of perjury that the information provided in this application is true and accurate. I understand that providing false or misleading information will result in a denial of my application.

To the extent this Application contains any information protected by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), I do not waive my rights under HIPAA.

Printed name: _____

Signature: _____

Date: _____



**City of South Bend, Indiana
Reasonable Accommodations**

VERIFICATION OF DISABILITY STATUS

Definitions:

Federal law provides in part that “persons with disabilities” are persons who: (1) have any “physical or mental impairment” that substantially limits one (1) or more “major life activities” or (2) has a record of having such impairment.

A “major life activity” is any task central to most people’s daily lives, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

A “physical or mental impairment” includes, but is not limited to orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction (except illegal drugs) and alcoholism. Short term, temporary health conditions shall not be included.

Verification:

To the best of my knowledge, information and belief, the person(s) who occupy (or who will occupy) the dwelling that is subject to the above request for a reasonable accommodation ___ do ___do not meet the definition of “persons with disabilities”. I am in a position to know about the person(s)’ disabilities because

(For example, are you a medical or social services professional, part of a peer support group that serves the person(s), or someone who resides with the person?)

[NOTE: Do NOT reveal the nature or severity of the persons’ disabilities.]

I affirm under penalty of perjury that the information provided in this Verification of Disability Status is true and accurate.

Printed name: _____
Signature: _____
Address: _____
Telephone # _____

Attachment # 2

Letter to Request Additional Information from the Applicant

[Letterhead]

[Date]

[Name]

[Street Address]

South Bend, Indiana [Zip Code]

Re: [Address of Dwelling]

Dear [_____]:

This office has received your request for a reasonable accommodation, which was dated [_____]. We need the following additional information from you in order to evaluate your request:

[List information that is needed]

We need this information so that we can determine [state reason information is needed]. Please send the information to this office by [mail, fax, or email].

If you believe that you already have provided the information or that we should not ask for it, please contact us at (574) 235-9571 or fax us at (574) 235-9813.

Please provide the requested information on or before _____ [date]. Within fifteen (15) days of receipt of the requested information, or within thirty (30) days from the date of your original application whichever is later, we will notify you of our decision with regard to your request for an accommodation. Please note that failure to provide the requested information in a timely manner could result in a denial of your request. Thank you.

[Closing]

[Signature]

[Printed Name]

Zoning Administrator

cc: County Attorney, or City Attorney for a dwelling within the City of South Bend corporate limits.

Attachment # 3

Letter to Schedule an Inspection of the Dwelling Regarding Space and Occupancy Requirements

[Letterhead]

[Date]

[Name]

[Street Address]

South Bend, Indiana [Zip Code]

Re: [Address of Dwelling]

Dear [_____]:

This office has received your request for a reasonable accommodation, which was dated [_____].

We need to inspect the dwelling that is the subject of your request. An inspection is necessary so that we can determine whether the dwelling is in compliance with the minimum space and maximum occupancy requirements if the requested accommodation is granted. The inspection will involve a verification of square footage, light, ventilation and related public safety requirements.

We would like to inspect the dwelling on [date and time]. If the inspection cannot take place at that time, please contact us as soon as possible at (574) 235-9571 to reschedule.

Please note that it is your responsibility to make sure that the authorized City or County inspector(s) has/have access to the dwelling at the scheduled time. Your failure to make the dwelling available for inspection could result in a denial of your request. Within the later of fifteen (15) days of the inspection, or thirty (30) days from the date of your application, we will notify you of our decision with regard to your request for an accommodation.

[Closing]

[Signature]

[Printed name]

Zoning Administrator

cc: County Attorney, or City Attorney for a dwelling within the City of South Bend corporate limits.

Attachment # 4

Letter to Grant a Request for a Reasonable Accommodation

[Letterhead]

[Date]

[Name]

[Street Address]

South Bend, Indiana [Zip Code]

Re: [Address of Dwelling]

Dear [_____]:

You submitted a request for an accommodation to this office on [date]
A copy of your request is attached for your reference.

This office has approved your request for an accommodation as follows:

[Describe the accommodation]

If you have any questions, please contact us at (574) 235- 9571. Thank you.

[Closing]

[Signature]

[Printed name]

Zoning Administrator

cc:

Building Department

County Attorney, or City Attorney for a dwelling within the City of South Bend corporate limits

Attachment # 5

Letter to Deny a Request for a Reasonable Accommodation

[Letterhead]

[Date]

[Name]

[Street Address]

South Bend, Indiana [Zip Code]

Re: [Address of Dwelling]

Dear [_____]:

You submitted a request for an accommodation to this office on [date]. A copy of your request is attached. This office denies your request because we find that [choose all that apply]:

___ The people who will live at the dwelling are not persons with disabilities because:

___ The accommodation that you requested is not necessary in order for a person with disabilities to have an equal opportunity to live in a dwelling of his or her choice because:

___ The accommodation is not reasonable because it would create an undue administrative or financial burden for the City as follows:

___ The accommodation is not reasonable because it would fundamentally alter the comprehensive plan or master zoning plan of the City as follows:

This decision was made because [give reasons/explanation]. We relied on the following information to reach our decision: [list relevant information]. If we have denied your application based on noncompliance with provisions of the *South Bend Municipal Code* [such as occupancy, ventilation or parking rules] and you may wish to file a request to waive those provisions.

You have the right to appeal this denial, within fifteen (15) days of the date this decision. Appeals from the adverse decision shall be made in writing to this Office and will be submitted to the Area Board of Zoning Appeals. All appeals must contain a statement of the grounds of the appeal.

Attachment # 5

Letter to Deny a Request for a Reasonable Accommodation – page 2

The Area Board of Zoning Appeals shall hold a public hearing on the appeal within thirty (30) days of receipt of an appeal. Their decision shall be final with their written decision being mailed to the appealing party within five (5) days of the appeal hearing.

Alternatively, and instead of a public hearing before the Area Board of Zoning Appeals, you also have the right to appeal to the United States Department of Housing and Urban Development or to a court of competent jurisdiction. If you choose this alternative method of appeal, you should notify the Area Board of Zoning Appeals of your choice of appeal within fifteen (15) days of your receipt of the Zoning Administrator's decision. You must file any lawsuit or appeal to the federal Department of Housing and Urban Development (HUD) within the time required by federal law. If you have any questions please call (574) 235-9571. Thank you.

[Closing]

[Signature]

[Printed name]

Zoning Administrator

cc: Area Board of Zoning Appeals Chairperson
Zoning and Annexation Committee Chairperson
Building Department
County Attorney, or City Attorney for a dwelling within the City of South Bend corporate limits
