

Attachment F

Administrative Code Amendments (Redline-Strikethrough Version)

Article 3

Reasonable Accommodation Policy for Zoning and Land Use

§ 2.5.300. REASONABLE ACCOMMODATION POLICY—ZONING AND LAND USE.

This Article provides a procedure to request reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) in the application of zoning laws and other land use regulations, policies and procedures.

§ 2.5.305. APPLICABILITY.

A request for reasonable accommodation may be made by any person with a disability, developers of housing for individuals with disabilities, and his/her representative or any entity, ~~when the application of a~~ to any zoning law, building regulations, or other land use regulation, policy, procedure or practice ~~acts as a barrier to~~ when it is necessary to eliminate barriers to fair housing opportunities. A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment. This Article is intended to apply to those persons who are defined as disabled under the Acts.

A request for reasonable accommodation may include a modification or exception to the rules, standards, procedure and practices for the siting, development and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of his/her choice. Requests for reasonable accommodation shall be made in the manner prescribed by §2.5.310 (Application Requirements) and shall be made to the City's ADA Coordinator.

§ 2.5.310. APPLICATION REQUIREMENTS.

- (a) **Application.** Requests for reasonable accommodation shall be submitted on an application form provided by the ADA Coordinator and shall include the following information:
- (1) The applicant's name, address and telephone number.
 - (2) Name and address of the property owner(s).
 - (3) Address of the property for which the accommodation is requested ~~request is being made.~~
 - (4) The current actual use of the property.
 - (5) The basis for the claim that the individual is considered disabled under the Acts.
 - (6) Description of the requested accommodation and ~~t~~ The zoning code provision, regulation or policy from which reasonable accommodation is being requested.
 - (7) Why the reasonable accommodation ~~is to make the specific property accessible to the individual.~~ may be necessary for the individual(s) with the disability to use and enjoy the dwelling.

- (b) Any confidential information provided by an applicant shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.
- (c) A request for reasonable accommodation in regulations, policies, practices and procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing.
- (d) A reasonable accommodation does not affect an individual's obligations to comply with other applicable regulations not at issue in the requested accommodation.
- (e) If an individual needs assistance in making the request for reasonable accommodation, the City will provide assistance to ensure that the process is accessible.
- (f) **Review with Other Land Use Applications.** If the project for which the request for reasonable accommodation is being made also requires some other discretionary approval (including but not limited to; conditional use permit, design review, general plan amendment, zone change, annexation, etc.), then the applicant shall file the information required by Subsection (a) ~~together for concurrent review~~ with prior to or concurrent with the application for discretionary approval. City shall make a decision on the reasonable accommodation separately and prior to review of the application for discretionary approval.

§ 2.5.315. REVIEW AUTHORITY.

Requests for reasonable accommodation shall be reviewed by the ADA Coordinator who may at the Coordinator's discretion, forward to the relevant department head for his/her review and determination.

§ 2.5.320. REVIEW PROCEDURE.

The ADA Coordinator or his/her designee, shall make a written determination within 45 days and either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with §2.5.325 (Findings and Decision).

If necessary to reach a determination on the request for reasonable accommodation, the ADA Coordinator may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request for additional information is made, the 45 day period to issue a decision is stayed until the applicant responds to the request.

§ 2.5.325. FINDINGS AND DECISION.

- (a) **Findings.** The written decision to grant or deny a request for reasonable accommodation will be consistent with the Acts and shall be based on consideration of the following factors:
 - (1) Whether the housing, which is the subject of the request, will be used by an individual disabled under the Acts.
 - (2) Whether the ~~request for reasonable~~ requested reasonable accommodation is necessary to make ~~specific~~ housing available to an individual with a disability under the Acts.
 - (3) Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the City.
 - (4) Whether the requested reasonable accommodation would require a fundamental

alteration in the nature of a City program or law, including but not limited to land use and zoning.

~~(5) Potential impact on surrounding uses.~~

~~(6) Physical attributes of the property and structures.~~

~~(7) Alternative reasonable accommodations which may provide an equivalent level of benefit.~~

- (b) **Conditions of Approval.** In granting a request for reasonable accommodation, the reviewing authority may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required by Subsection (a) above.

§ 2.5.330. APPEAL OF DETERMINATION.

A determination by the reviewing authority to grant or deny a request for reasonable accommodation may be appealed to the Planning Commission: within thirty (30) days of the date of the reviewing authority's written decision. Appeals from the adverse decision shall be made in writing.

If an individual needs assistance in filing an appeal on an adverse decision, the City will provide assistance to ensure that the appeals process is accessible.

All appeals shall contain a statement of the grounds for the appeal. Any confidential information provided by an applicant shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.

Nothing in this procedure shall preclude an aggrieved individual from seeking any other state or federal remedy available.