

ATTACHMENT A – DRAFT ORDINANCE LANGUAGE

Chapter 17.60 REASONABLE ACCOMMODATION

17.60.010 Intent

It is the policy of Alameda County to provide Reasonable Accommodation for exemptions in the application of its zoning laws to rules, policies, practices, and procedures for the siting, development, and use of housing, as well as other related residential services and facilities, to persons with disabilities seeking fair access to housing. The purpose of this section is to provide a process for making a request for Reasonable Accommodation to individual persons with disabilities, to be applicable to individual residential units.

17.60.020 Application

Any person who requires Reasonable Accommodation, because of a disability, in the application of a zoning law which may be acting as a barrier to fair housing opportunities, or any person acting on behalf of or for the benefit of such a person, may request such accommodation on a form to be provided by the Planning Director.

17.60.030 Required information

The applicant shall provide the following information:

1. Applicant's name, address, and telephone number;
2. Address of the property for which the request is being made;
3. The current actual use of the property;
4. The zoning code provision, regulation, or policy from which accommodation is being requested; and
5. Why the accommodation is necessary to make the specific housing accessible to people with disabilities. For purposes of this Chapter, 'disabled', 'disability', and other related terms shall be defined as in the Federal Americans with Disabilities Act of 1990, the California Fair Employment and Housing Act, or their successor legislation.

17.60.040 Process

If the project for which the request is being made requires no other planning permit or approval, the Planning Director shall decide whether or not to grant the request. No public hearing is required unless one is requested as provided below in Section 17.60.060. If the project for which the request is being made also requires some other planning permit or approval, except a Variance since none would be required for request for consideration of an exemption(s) from development standard(s), the application shall be combined and processed with the application for such permit or approval.

17.60.050 Notice of request for Reasonable Accommodation

Written notice of a request for Reasonable Accommodation shall be given as follows:

1. Where the request does not require another planning permit or approval, and where the request for reasonable accommodation involves conversion of a garage to living space, variance from the requirements of this Ordinance for a secondary unit, or use of a recreational vehicle in a required setback, notice shall be mailed to the owners of record of all properties within a three hundred (300) foot radius of the property which is the subject of the request. Where the request does not require

another planning permit or approval, and where the request is for any other reasonable accommodation, notice shall be mailed to the owners of record of all properties within a one hundred (100) foot radius of the property which is the subject of the request. This notice shall include the information in Section 17.060.030, above, shall indicate that any person may request a hearing on the request as provided in Section 17.60.060, and shall describe the approval process.

2. In the event that the request is being made in conjunction with some other process, notice shall be included with the notice of the other proceeding.

17.60.060 Planning Director's hearing

Where the request does not require another planning permit or approval, any person may request that the Planning Director hold a public hearing on the request for Reasonable Accommodation. Such request must be made in writing to the Planning Director within fifteen days of the date of the notice of request for reasonable accommodation. If requested, the Planning Director shall conduct a hearing on the request for Reasonable Accommodation within thirty days of the date of the notice of request for reasonable accommodation, at which all reasonable evidence and credible testimony shall be considered. Notice shall be mailed ten days prior to the hearing to the owners of record of all properties within a one hundred (100) foot radius of the property which is the subject of the request. This notice shall include the information in Section 17.060.030, above.

17.60.070 Grounds for Reasonable Accommodation

A request for Reasonable Accommodation may be approved, approved subject to conditions, or denied. In making a determination regarding the reasonableness of a requested accommodation, the following factors shall be considered:

1. Special need created by a disability;
2. Potential benefit to current and/or potential residents and/or visitors that can be accomplished by the requested modification;
3. Alternative accommodations which may provide an equivalent level of benefit to residents;
4. Potential impact on surrounding uses;
5. Whether the requested accommodation would impose an undue hardship on the immediate surrounding neighbors;
6. Physical attributes of the property and structures, including consistency of design with the immediate surrounding neighborhood; and
7. Whether the requested accommodation would impose an undue financial or administrative burden on the County.

17.60.080 Notice of decision

Where the request does not require another planning permit or approval, if there is no request for a public hearing on the request for reasonable accommodation the Planning Director shall decide whether or not to grant the accommodation within thirty days of mailing the public notice required under Section 17.60.050 above. If there is a public hearing, the Planning Director shall decide to approve, approve subject to conditions, or deny the accommodation within fifteen days of the hearing. The Planning Director shall mail a notice of the decision to the applicant, to persons notified of the request under Section 07.60.050 above, and to all other interested parties. Such notice shall contain the Planning Director's factual findings, conclusions, and reasons for the decision.

Where the request is being made in conjunction with another process, the decision shall be part of the decision making process for the project.

17.60.090 Appeal to the Board of Supervisors

Where the request does not require another planning permit or approval, within ten days after the notice of Planning Director's decision, any person may appeal the decision in writing to the Board of Supervisors. All appeals shall contain a statement of the grounds for the appeal. All such appeals shall follow procedures per Section 17.54.670 of the County Zoning Ordinance.

Where the decision is part of another approval, appeal of the decision shall follow the process for the underlying approval.

17.60.100 Term Limits for Grants of Reasonable Accommodation

Where the request for reasonable accommodation involves conversion of a garage to living space, variance from the requirements of this Ordinance for a secondary unit, or use of a recreational vehicle in a required setback, the request shall include a specific time limit and shall be made contingent on a specific person's actual need for the accommodation.

At the expiration of this period the applicant shall notify the Planning Director if the need continues. The Planning Director may extend the term for a period for a specific time limit after following the process described above in §17.60.050 through §17.60.090. If the applicant does not notify the Planning Director at or before the expiration, or if the Planning Director does not extend the term, the premises shall be returned to the condition prior to the accommodation. Any violation to the granted term limits shall follow procedures per Chapter 17.59 Abatement of Procedures of the County Zoning Ordinance.

Where the request is for any other purpose, including but not limited to encroachment of a ramp or elevator housing into a required setback or construction or placement of accessory structures for medical or other necessary equipment there shall be no time limit on the accommodation.

Nothing in this section shall preclude rescission of the grant of reasonable accommodation as indicated in §17.60.110.

17.60.110 Rescission of grants of Reasonable Accommodation

Any approval or conditional approval of a request for Reasonable Accommodation may be rescinded subject to Section 17.54.030 of the County Zoning Ordinance.

17.60.120 Fees

There shall be no fee for an application for Reasonable Accommodation. Fees for appeals to Planning Director's decision on Reasonable Accommodation shall be the same as those fees for appeals as established per County Ordinance.

Additional ordinance amendment language:

17.54.670 Appeals

An appeal may be taken to the Board of Supervisors within ten days after the date of any order made by the Planning Commission, the Planning Director, or the Board of Zoning Adjustments pursuant to Sections 17.18.130, 17.54.060, 17.54.070, 17.54.100, 17.54.140, ~~or~~ 17.54.400, or 17.60.080. The appeal may be taken...