

## CHAPTER FIVE: PLANNING, ZONING, USE, AND DEVELOPMENT OF LAND AND IMPROVEMENTS

### Subchapter 5.15: Requests for Reasonable Accommodations in Housing

#### 5.15.010 Purpose

It is the policy of the Town of Colma to provide reasonable accommodations for persons with disabilities seeking fair and equal access to housing in the application of its zoning laws, building codes, and other land use regulations, policies and procedures. The purpose of this subchapter is to provide a process for making a request for reasonable accommodation.

[History: ORD. 652, 1/10/07, ORD. 688, 3/10/10]

#### 5.15.020 Applicability

(a) This subchapter applies to persons with disabilities as defined under the Americans with Disabilities Act of 1990 ("ADA"); the Federal Fair Housing Act; the California Fair Employment and Housing Act; and Health and Safety Code sections 19955 *et seq.* (the "Acts").

(b) *Authorized Applicants.* A request for reasonable accommodation may be made by any person with a disability, their representative or any entity, when the application of a zoning law, building code or other land use regulation, policy or practice acts as a barrier to fair housing opportunities. A person with a disability is a person who has, or is regarded as or has a record of having, a physical or mental impairment that limits or substantially limits one or more major life activities within the meaning of the Acts.

(c) *Elimination of Regulatory Barriers.* A request for reasonable accommodation may include a modification or exception to Town rules, policies and procedures, or to the standards 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 their choice. A request for reasonable accommodation shall comply with Section 5.15.030 of this subchapter.

[History: ORD. 652, 1/10/07, ORD. 688, 3/10/10]

#### 5.15.030 Application Requirements

(a) *Application.* A request for reasonable accommodation sought to obtain equal access to housing or the use of land within the Town of Colma by a qualified individual with a disability shall be initiated by submitting to the City Planner a completed application form, signed by the property owner or authorized agent, containing the following information:

- (1) The applicant's name, address and telephone number;
- (2) Address of the property for which the request is being made;
- (3) The current use of the property;
- (4) The basis for the claim that the individual is considered disabled under the Acts;

(5) The code provision or other Town regulation or policy from which accommodation is being requested; and

(6) An explanation of why the accommodation is necessary to make the specific property accessible to the individual.

(b) *Review with Other Planning Applications.* If the request for reasonable accommodation is being made in connection with a project or other land use that also requires some other planning approval (such as a use permit, variance, design review permit, zone change, general plan amendment or subdivision), then the applicant shall file the application containing the information required by subsection (a) with the City Planner together for concurrent review with the application(s) for approval.

[History: Ord. 652, 1/10/07; ORD. 388, 3/10/10; ORD. 693, 9/8/10]

#### **5.15.040 [Repealed.]**

[History: Ord. 652, 1/10/07; ORD. 388, 3/10/10; ORD. 693, 9/8/10]

#### **5.15.050 Public Notice**

Written notice of a request for reasonable accommodation shall be given as follows:

(a) *No Related Discretionary Approval.* If there is no discretionary approval sought other than the request for reasonable accommodation, notice shall be mailed to the owners of record of all properties which are immediately adjacent to the property which is the subject of the request at least fifteen (15) days prior to the decision.

(b) *Related Discretionary Approval.* If the request is made in conjunction with another discretionary planning approval, notice of the requested accommodation shall be transmitted along with and in the manner prescribed for the other planning application.

(c) *Notice of Proposed Decision.* The notice required by this section shall inform adjacent property owners of the requested accommodation; the proposed decision whether to grant or deny the request; and that any person may make a request for a hearing with the City Planner to contest the proposed decision within 10 days of the date the notice is mailed. If no request for a hearing is received, the proposed decision shall become final on the date the notice of decision required by Section 5.15.070 (g) below is issued.

[History: Ord. 652, 1/10/07; ORD. 388, 3/10/10; ORD. 693, 9/8/10]

#### **5.15.060 Consideration of Request; Public Hearing.**

(a) *Consideration of Request.* In considering whether to grant or deny a request for reasonable accommodation, the City Planner shall consider all resources available to the Town for use in the funding and operation of the service, program or activity.

(b) *Public Hearing.* If a hearing is requested pursuant to Section 5.15.050(c), the City Planner shall notice and conduct a public hearing on the request for reasonable accommodation as set forth in Sections 1.02.230-1.02.240 of this Code.

(c) *Findings.* The written decision to grant or deny a request for reasonable accommodation shall be based on consideration of the factors set forth below.

(1) Whether the housing, which is the subject of the request, will be used by an individual with a disability under the Acts.

(2) Whether the request for 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 Town.

(4) Whether the requested reasonable accommodation would require a fundamental alteration in the nature of the Town program or law, including, but not limited to, land use and zoning. If the Town determines that a requested accommodation would result in a fundamental alteration or an undue financial or administrative burden, the Town may take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive equal access to the benefits or services provided by the Town.

(d) *Conditions of Approval.* In granting a request for reasonable accommodation, the City Planner may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required in subsection (a) of this section.

[*History:* Ord. 652, 1/10/07; ORD. 688, 3/10/10; ORD. 693, 9/8/10]

#### **5.15.070 Notice of Decision**

A written notice of decision either granting or denying the request, including any reasonable conditions, shall be issued in the same manner as provided in Section 5.15.050 above, after the required 10 day notice period has ended. The notice of decision shall contain the factual findings, conclusions and reasons for the decision. A decision to deny a request shall include the reasons why providing the requested accommodation would fundamentally alter the nature of the service or program in question or would result in an undue financial or administrative burden.

[*History:* Ord. 688, 3/10/10; ORD. 963, 9/8/10; ORD. 739, 3/11/15]

#### **5.15.080 Appeal of Determination**

A determination by the City Planner to grant or deny a request for reasonable accommodation may be appealed to the City Manager in accordance with section 1.02.430 of the Colma Municipal Code.

[*History:* Ord. 652, 1/10/07; ORD. 688, 3/10/10; ORD. 693, 9/8/10]