



Planning and Building Agency
Planning Division
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REASONABLE ACCOMMODATION ORDINANCE

Sec. 41-49. Disabled Person.

For purposes of the reasonable accommodation process detailed in Sections 41-652, et seq., any person who has a medical condition, physical disability, or mental impairment that 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. People who are currently using illegal substances are not covered unless they have a separate disability.

Sec. 41-141. Reasonable Accommodation.

A modification or exception to the standards, regulations, policies, and procedures contained in this title for the siting, development, and use of housing or housing-related facilities, that would eliminate regulatory barriers and provide an individual with a disability equal opportunity for the use and enjoyment of housing of their choice, and that does not impose undue financial or administrative burdens on the City or require a fundamental or substantial alteration of the City's planning and zoning programs.

Sec. 41-652. Reasonable Accommodation – Application Process.

- (a) *Notice to the public of availability of accommodation process.* The Agency shall prominently display in both City Hall and the Planning and Building Agency a notice advising those with disabilities or their representatives that they may request a reasonable accommodation in accordance with the procedures established in this Division.
- (b) *Applicability.* To make specific housing available to an individual with a disability, any person may request reasonable accommodation under this division to modify a land use or zoning standard, regulation, policy, and procedure of the City as may be necessary to afford the individual with a disability equal opportunity to the use and enjoyment of their dwelling. A request for reasonable accommodation shall be made by filing an application under this section.
- (c) *Application.* An application for reasonable accommodation shall be submitted on a form prescribed by the Executive Director of the Planning and Building Agency, or in the form of a letter addressed to the Executive Director.
- (d) *Privacy.* Any information related to a disability status and identified by an applicant as confidential 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.
- (e) *Assistance.* 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) *Timing.* A request for reasonable accommodation may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation does not affect an individual's obligations to comply with other applicable regulations not at issue in the requested accommodation.

- (g) *Filing Fees.* There shall be no fee imposed in connection with a request for reasonable accommodation under the provisions of this Division.

Sec. 41-653. Reasonable Accommodation – Review.

- (a) *Executive Director Review.* An application for reasonable accommodation shall be reviewed by the Executive Director of the Planning and Building Agency, or his or her designee, as appropriate.
- (b) *Decision.* Within sixty (60) days of acceptance of the application as complete, the Executive Director shall issue a written decision to grant, grant with modifications, or deny an application for reasonable accommodation in accordance with Section 41-654 and shall notify the applicant of the decision. The written decision shall explain in detail the basis of the decision, including the Executive Director's findings on the factors stated in Section 41-654. If necessary to reach a determination on the request for reasonable accommodation, the Executive Director may request additional information from the applicant consistent with The Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act, specifying in detail the information that is required. If a request for additional information is made, the sixty (60) day period to issue a decision is stayed until the applicant responds to the request.
- (c) *Referral to Other Reviewing Authority.* The Executive Director shall have the authority, upon his or her sole discretion, to refer any reasonable accommodation application to any other reviewing authority, including, but not limited to, the Planning Commission, the Zoning Administrator, or the Historic Resources Commission, to review the reasonable accommodation application and make a determination on the same in accordance with the applicable Sections.

Sec. 41-654. Reasonable Accommodation – Standards.

- (a) *Findings.* The decision to grant, grant with modifications, or deny an application for reasonable accommodation shall be based on a finding of consistency with the Acts and shall take into consideration all of the following factors:
 - 1. Whether the housing or housing related facilities, which are 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 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. Whether the requested reasonable accommodation would be contrary to the public health, safety, or welfare, or be injurious to the property or improvements of adjacent properties.
 - 6. Whether the requested reasonable accommodation adequately considers the physical attributes of the property and structures

7. Whether alternative reasonable accommodations could provide an equivalent level of benefit.
 8. Whether the property is in compliance with the then existing laws and regulations otherwise applicable to the property that is the subject of the request. If any non-compliance is through no fault of the applicant or unrelated to the request for reasonable accommodation, the Executive Director may waive this requirement. However, such a waiver shall not preclude the City from requiring that the existing violations be corrected in accordance with the Santa Ana Municipal Code.
- (b) *Conditions of Approval.* In granting a request for reasonable accommodation, the Executive Director of the Planning and Building Agency may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation will comply with the findings required by this section. 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 unnecessary to afford the individual with a disability for whom the reasonable accommodation was granted the use and enjoyment of the dwelling.
- (c) *Restrictive Covenant.* When applicable, the City shall enter into a restrictive covenant with the owner of the property which provides that prior to any sale, transfer, lease or other conveyance of the property, or at the time the need for the reasonable accommodation is no longer necessary, that the owner of the property shall bring the property into conformance with the City's zoning code to the extent that relief was provided under the zoning code as part of the request for reasonable accommodation. The restrictive covenant shall be recorded against the property being granted the reasonable accommodation. The restrictive covenant shall provide that the reasonable accommodation does not run with the land and shall terminate upon any sale, transfer, lease or other conveyance of the property. Upon submittal of a new application for a successor in interest to the property, the Executive Director may consider a continuation of the reasonable accommodation if it is consistent with and does not extend the original approval.

Sec. 41-655. Reasonable Accommodation – Miscellaneous Provisions.

- (a) *Time Extension; Voidance; Revocation.* Any reasonable accommodation approved in accordance with the terms of this Article may be extended, voided, or revoked for the same reasons and in the same manner as a conditional use permit, as detailed in Article V of this Chapter, or for any violations of this Article, or for any violations of the terms and conditions of the reasonable accommodation, or if any law is violated in connection with the use of the reasonable accommodation.
- (b) *Resubmittal of Applications.* No request for reasonable accommodation that has been denied in whole or in part shall be filed again within six (6) months from the date of such denial except upon proof of changed conditions or by permission of the Executive Director of the Planning and Building Agency.
- (c) *Modifications.* A request to modify an approved reasonable accommodation shall be treated as a new application, unless in the opinion of the Executive Director the requested modification results in only a minor change, is within the authority of the Executive Director to approve, and is consistent with the original approval.
- (d) *Appeals.* The applicant requesting the accommodation may appeal an adverse determination or any conditions or limitations imposed in the written determination as provided in Chapter 3 of this Code. (*Ord. No. NS 2813, 2-22-11*)