

CITY COUNCIL POLICY C11-01 REASONABLE ACCOMODATION

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I. Purpose

The purpose of the reasonable accommodation policy is to provide individuals with disabilities reasonable accommodation in rules, policies, practices, and procedures to ensure equal access to housing and facilitate the development of housing for individuals with disabilities pursuant to the Federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act and California Senate Bill (SB) 520.

This policy establishes a procedure for making requests for reasonable accommodations in land use, zoning and building regulations, policies, practices and procedures of the City of Carmel-by-the-Sea to comply fully with the intent and purpose of fair housing laws.

II. Applicability

Reasonable accommodation in the land use and zoning context means providing individuals with disabilities or developers of housing for people with disabilities, flexibility in the application of land use, zoning and building regulations, policies, practices and procedures, or even waiving certain requirements, when it is necessary to afford individuals with disabilities equal opportunity and access to housing.

An individual with a disability is someone who has a physical or mental impairment that limits one or more major life activities; anyone who is regarded as having such impairment; or anyone with a record of such impairment. A request for reasonable accommodation may be made by any individual with a disability, his or her representative, or a developer or provider of housing for individuals with disabilities, when the application of a land use, zoning or building regulation, policy, practice or procedure acts as a barrier to the individual(s) with disabilities.

III. Notice of Reasonable Accommodations Policy

Notice of the availability of reasonable accommodation shall be prominently displayed at the public information counter in the Department of Community Planning and Building, advising the public of the availability of the procedure for eligible individuals.

IV. Application Process

- A. Requests for reasonable accommodation shall be submitted on an application form provided by the City, or in the form of a letter, to the Department of Community Planning and Building and shall contain the following information:
 - 1. The applicant's name, address and telephone number;
 - 2. The physical address, Block and Lot and Assessor's Parcel Number of the property for which the request is being made;
 - 3. The current use of the property;
 - 4. Statement under penalty of perjury indicating that the requested accommodation is required for an individual(s) with disabilities;

5. Description of the requested accommodation and the regulation(s), policy or procedure for which accommodation is sought;
 6. Reason that the requested accommodation may be necessary for the individual(s) with the disability to use and enjoy the property; and
 7. Applicable design plans depicting the requested accommodation.
- B. Any information 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.
- 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. A reasonable accommodation does not affect an individual's obligations to comply with other applicable regulations not at issue in the requested accommodation.
- D. If an individual needs assistance in making the request for reasonable accommodation, the jurisdiction will provide assistance to ensure that the process is accessible.

V. Review Authority

- A. Director of Community Planning and Building. Requests for reasonable accommodations shall be reviewed by the Director of Community Planning and Building (Director), or his or her designee, if no approval is sought that requires review by a City Board, Commission or Council, the Director may refer the request to the Planning Commission.
- B. Other Review Authority. Requests for reasonable accommodation submitted for concurrent review with another discretionary land use application, or when otherwise referred by the Director, shall be reviewed by the Planning Commission.

VI. Required Findings

The reviewing authority shall not grant an accommodation(s) unless the following findings can be made:

1. That the housing, which is the subject of the request for reasonable accommodation, will be used by an individual with disabilities protected under fair housing laws; and
2. That the requested accommodation is necessary to make housing available to an individual with disabilities protected under the fair housing laws and cannot reasonably be accomplished without special accommodations; and
3. That the requested accommodation will not impose an undue financial or administrative burden on the City; and
4. That the requested accommodation will not require a fundamental alteration in the nature of the City's land use, zoning, building or Local Costal Program; and
5. That the requested accommodation will not result in a significant and unavoidable negative impact on adjacent uses or structures.

VII. Conditions of Approval

The reviewing authority may approve a request for accommodation(s) with appropriate special conditions. These conditions could include, but are not limited to:

2. Inspection of the affected premises periodically as needed;
3. Removal of the improvements if the need for which the accommodation was granted no longer exists and/or upon transfer of interest in the property; and
4. Other conditions deemed necessary to protect the public health, safety, and welfare.

VIII. Appeals

The final decision of the reviewing authority may be appealed by following the appeal procedures established in CMC Chapter 17.64 unless the final reviewing authority is the City Council, in which case the decision shall be final.

Approved by Council Resolution 2011-36
July 12, 2011