

ORDINANCE NO. 3262

Planning Commission Recommended Draft April 10, 2013

AN ORDINANCE ADDING SECTION 22.70.035 TO THE LAND USE ORDINANCE (LUO), TITLE 22 OF THE COUNTY CODE REFERRING TO REASONABLE ACCOMMODATIONS. THE PURPOSE OF THE AMENDMENTS IS TO PROVIDE INDIVIDUALS WITH DISABILITY FLEXIBILITY IN THE APPLICATION OF LAND USE REGULATIONS.

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

SECTION 1: Chapter 22.70 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended by adding new Section 22.70.035 as follows:

22.70.035 – Reasonable Accommodation Adjustment

- A. Purpose.** The purpose of this section is to provide a procedure for an individual with a disability to seek a reasonable accommodation in the application of this Title to ensure equal access to housing and to facilitate the development of housing for individuals with disabilities as provided by the federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act, herein known as the "Acts". Reasonable accommodation means providing an individual with a disability flexibility in the application of land use regulations, including modification or exception to the requirements for siting development when necessary to eliminate regulatory barriers.
- B. Applicability.** Any person seeking approval to construct and/or modify residential housing and/or emergency shelters to allow for the accommodation by person(s) with disabilities, and/or operate residential care facilities, which will serve persons with disabilities, may apply for a reasonable accommodation adjustment.
- C. Application filing.** An adjustment request shall be filed with the Department in the form of an attachment to the project application, with appropriate supporting materials including:
1. The 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 and how the property will be used by the individual protected under the Acts.
 4. The basis for the claim that the individual is considered disabled under the Acts.
 5. The provision, regulation or policy from which reasonable accommodation is being requested.
 6. Why the reasonable accommodation is necessary to make the specific property accessible to the individual.
- D. Review procedure.** The request shall specify the Land Use Ordinance standard requested for adjustment, and document the manner in which the proposed project qualifies for the adjustment. A request for adjustment shall not be accepted for processing by the Department unless the request is within the range of adjustments prescribed by this Section. A request for adjustment shall be approved by the Director when the Director finds the following:
1. The housing, which is the subject of the request, will be used by an individual with a disability protected under the Acts
 2. The request for reasonable accommodation is necessary to make specific housing available to an individual with a disability protected under the Acts
 3. The requested reasonable accommodation would not impose an undue financial or

administrative burden on the County.

4. The requested reasonable accommodation would not require a fundamental alteration in the nature of County ordinances or general plan.
5. The requested reasonable accommodation would not waive a requirement for a land use permit, building permit or encroachment permit.
6. The requested reasonable accommodation will not result in approved uses that are otherwise prohibited by the County's ordinances and general plan.
7. If the Director grants, or grants with modifications, the adjustment, the adjustment shall be granted to an individual and shall not run with the land unless the Director also finds that the modification is physically integrated into the structure and cannot be easily removed or altered to comply with this Title.
8. The requested is limited to the minimum reasonable accommodation necessary to accommodate the needs of the individual protected under the Acts

E. Reasonable accommodation adjustment.

1. **Adjustments allowed.** Adjustments may include, but are not limited to:
 - a. setbacks and encroachments for ramps, handrails or other such accessibility improvements;
 - b. hardscape additions such as widening driveways, parking areas or walkways that would not otherwise comply with landscaping or open space provisions;
 - c. reduction to off-street parking where the disability clearly limits the number of people operating vehicles;
 - d. tree removal; and building addition(s) necessary to afford the applicant and equal opportunity to use and enjoy a dwelling.
2. **Adjustments prohibited.** Adjustments may not include accommodations which would impose an undue financial or administrative burden on the County or require a fundamental alteration in the County's Ordinances or General Plan. A reasonable accommodation cannot waive a requirement for a land use permit when one is otherwise required or result in approved uses otherwise prohibited by the County's Ordinances and General Plan.

F. Duration of reasonable accommodation.

1. The reasonable accommodation may continue to be used and maintained by the individual with a disability for the duration of his or her tenancy in the dwelling subject to the finding in Subsection D.7.
2. Within 60 days of the termination of the tenancy the reasonable accommodation shall be removed unless the Director has determined that the reasonable accommodation may remain as provided in Subsection D.7.

SECTION 2. That this project is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility that this project may have a significant effect on the environment; therefore, the activity is not subject to CEQA. [Reference: State CEQA Guidelines sec. 15061(b)(3), General Rule

Exemption].

SECTION 3. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 4: This ordinance shall take effect and be in full force on and after 30 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the 17th day of June, 2014, by the following roll call vote, to wit:

AYES: Supervisors Chairperson Bruce S. Gibson, Frank R. Mecham, Adam Hill, Caren Ray, and
Debbie Arnold
NOES: None
ABSENT: None
ABSTAINING: None

Bruce S. Gibson
Chairman of the Board of Supervisors,
County of San Luis Obispo, State of California

ATTEST:

JULIE L. RODEWALD
County Clerk and Ex-Officio Clerk
of the Board of Supervisors
County of San Luis Obispo, State of California

[SEAL]

By: Annette Ramirez
Deputy Clerk