



DEPARTMENT OF PLANNING AND BUILDING

THIS IS A NEW PROJECT REFERRAL FOR A GENERAL PLAN AMENDMENT

DATE: 1/8/2014

TO: _____

FROM: Karen Nall, Senior Planner knall@co.slo.ca.us (805) 781-5606

PROJECT DESCRIPTION: LRP2013-00009 County of San Luis Obispo
Referral of Proposed Amendment to the Land Use Ordinance and Coastal Zone Land Use Ordinance referring to Reasonable Accommodations

The proposed amendments are necessary in order to provide a procedure for an individual with a disability to seek a reasonable accommodation in the application of the Ordinances to ensure equal access to 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.

Attached are proposed amendments which include the following:

Please review and respond by February 7, 2014.

RESPONSE:

Date

Name

Phone

**Draft Amendments to the Land Use Ordinance (Title 22):
Reasonable Accommodations
County of San Luis Obispo LRP 2013-00009 - January 2014**

The following is a proposed new Section with all new language.

22.70.035 – Reasonable Accommodation Adjustments

- 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 for 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.
 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 when otherwise is required.
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.

E. Reasonable Accommodations.

1. **Adjustments allowed.** Adjustments may be include, but are not limited to setbacks and encroachments for ramps, handrails or other such accessibility improvements; hardscape additions such as widening driveways, parking areas or walkways that would not otherwise comply with landscaping or open space provisions; reduce off-street parking where the disability clearly limits the number of people operating vehicles; 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 (2) 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.

**Draft Amendments to the Coastal Zone Land Use Ordinance (Title 23):
Reasonable Accommodations
County of San Luis Obispo LRP 2013-00009 - January 2014**

The following is a proposed new Section with all new language.

23.01.046 – Reasonable Accommodation Adjustments

- 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 for 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.
 - (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 Coastal Zone 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 when otherwise is required.
- (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.

e. Reasonable Accommodations.

- (1) **Adjustments allowed.** Adjustments may be include, but are not limited to setbacks and encroachments for ramps, handrails or other such accessibility improvements; hardscape additions such as widening driveways, parking areas or walkways that would not otherwise comply with landscaping or open space provisions; reduce off-street parking where the disability clearly limits the number of people operating vehicles; 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 (2) 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.