

Chapter 17.131 REASONABLE ACCOMMODATIONS POLICY AND PROCEDURES

17.131.010 Title, purpose and applicability.

- A. Title and Intent. The provisions of this Chapter shall be known as the Reasonable Accommodations Policy and Procedure Regulations. The intent of the Reasonable Accommodations Policy and Procedure regulations is to provide flexibility in the application of the Planning Code for individuals with a disability, when flexibility is necessary to eliminate barriers to housing opportunities. This Chapter will facilitate compliance with federal and state fair housing laws, and promote housing opportunities for residents of Oakland.
- B. Purpose. The purpose of this Chapter is to establish a procedure for persons with disabilities seeking fair access to housing to make requests for reasonable accommodation in the application of Oakland's zoning laws, rules, policies, practices and procedures pursuant to Section 3604(f)(3)(b) of Title 42 of the United States Code (the "Fair Housing Act") and Section 12955 et seq. of the California Government Code (the "California Fair Employment and Housing Act"), which prohibit local government from refusing to make reasonable accommodations in policies and practices when these accommodations are necessary to afford persons with disabilities equal opportunity to use and enjoy a dwelling.
- C. Applicability. A request for reasonable accommodation may include a modification or exception to the rules, 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.

(Ord. No. 13357, § 3(Exh. A), 2-16-2016; Ord. No. 13247, § 3(Exh. A), 7-15-2014)

17.131.020 Definitions.

"Acts" means the "Fair Housing Act" (Section 3601 et seq. of Title 42 of the United States Code) and the "California Fair Employment and Housing Act" (Section 12955 et seq. of the California Government Code).

"Person with a Disability" is any person 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 who has a record of such impairment. Federal and State fair housing laws do not protect an individual's current unlawful use of controlled substances or other drugs, unless that individual has a separate disability.

"Request for Reasonable Accommodations" means a request to modify land use, zoning and building regulations, policies, practices, or procedures in order to give people with disabilities an equal opportunity to use and enjoy a dwelling.

(Ord. No. 13247, § 3(Exh. A), 7-15-2014)

17.131.030 Notice of availability; application requirements.

- A. Notice of the City of Oakland's Reasonable Accommodations Policy and Procedure shall be displayed at public information counters in the planning and building offices of the City.
- B. Any person (or his or her representative) who requires reasonable accommodation because of a disability shall make such a request to the City on a form provided by the Planning Director, or his or her designee. The application shall be accompanied by such information as may be required to enable review of the requested

accommodation. City staff are available to assist with the completion of a reasonable accommodations request (see related Reasonable Accommodations Form for more information).

- C. Any information submitted as part of a reasonable accommodations request shall be kept confidential and 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.
- D. Review with other land use or design review applications. If the project for which the request is being made also requires one or more unrelated discretionary approvals (including, but not limited to, design review, conditional use permit, variance or subdivision), then to the extent feasible, the applicant shall file the request for reasonable accommodation together with any unrelated application for discretionary approval.

(Ord. No. 13247, § 3(Exh. A), 7-15-2014)

17.131.040 Review procedures.

- A. Authority. The Planning Director, or his or her designee, shall have the authority to consider and act on requests for reasonable accommodation and shall make reasonable accommodations in rules, policies, practices, or services when those accommodations may be necessary to afford persons with disabilities equal opportunities to use and enjoy the dwelling.
 - 1. For requests for reasonable accommodation the Planning Director, or his or her designee, shall issue a written determination within a timely manner but no later than thirty (30) days of the date of receipt of a complete application form and may: (1) grant the accommodation request; (2) grant the accommodation request subject to specified nondiscriminatory conditions of approval; or (3) deny the request. All written determinations shall give notice of the right to appeal, if any, as specified in Section 17.131.070. The notice of determination shall be sent to the applicant by first class mail or in a format requested by the applicant.
 - 2. For requests for reasonable accommodations involving any applications for discretionary approval, the application for reasonable accommodation shall be processed and considered separately from any discretionary elements of the same proposal. The Planning Director, or his or her designee, shall act on the request for reasonable accommodation within a timely manner but no later than thirty (30) days of the date of a complete application form; however, if the request for a reasonable accommodation cannot be effectuated until a final decision is rendered on the related discretionary approvals, a "provisional approval" can be granted within the 30 day time frame allowing the reasonable accommodation request to be implemented, or modified as needed to obtain the same goal, at the time of the final discretionary approval, and shall become final at the same time. The applications for discretionary approval shall be separately considered and shall be subject to the procedures for consideration specified in the applicable Planning Code Chapter, depending on the type of application. The appropriate decision-making body shall act on all discretionary permits, but not the reasonable accommodation request.
- B. Types of Requests.
 - 1. "Category A" Requests. Requests for accommodation from development regulations not specified as a "Category B" request (see item 2 below), including but not limited to, setbacks, building height limits and parking regulations in the Planning Code, or for any additions to Residential Facilities which meet the definition of a "Small Project," as defined in Section 17.136.030(B), shall be considered "Category A" requests.
 - 2. "Category B" Requests. Requests for accommodation from residential density regulations in the Planning Code; distance separation requirements in the Planning Code; land use activities not permitted by the Planning Code; any additions to Residential Facilities which meet the definition of

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"Regular design review" as defined in Section 17.136.040(A); and any other accommodations request, under the discretion of the Planning Director, shall be considered "Category B" requests.

C. Procedure.

1. The applicant shall submit a completed reasonable accommodation application form to the Planning Director, or his or her designee, or request assistance from City staff to complete the application.
2. Whenever reasonable accommodation is requested for a proposal also requiring one or more discretionary land use permits, including but not limited to a design review, conditional use permit, planned unit development permit, or variance, to the extent feasible the application for reasonable accommodation shall be submitted with the application for said permit(s). The reasonable accommodation request shall be processed and considered separately from any land use permits requested for the same proposal as specified in 17.131.040(2).
3. In reviewing a request for a reasonable accommodation, the Planning Director, or his or her designee, shall consider information in the completed reasonable accommodation application form, factors described in Section 17.131.050 and/or 17.131.060, and any additional information consistent with this Chapter. The Planning Director, or his or her designee, may consult with staff of the City's Americans with Disabilities Act (ADA) Programs Division during the review period.
4. While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.

(Ord. No. 13357, § 3(Exh. A), 2-16-2016; Ord. No. 13247, § 3(Exh. A), 7-15-2014)

17.131.050 Criteria for "Category A" requests.

A proposal will qualify for "Category A" Request if it meets each of the provisions set forth below.

- A. The proposal is limited to one or more of the types of work listed as "Category A" request in 17.131.040(B)(1); and
- B. The accommodation is necessary to afford people with disabilities an equal opportunity to use and enjoy the dwelling.

(Ord. No. 13247, § 3(Exh. A), 7-15-2014)

17.131.060 Findings for "Category B" requests.

In making a determination to grant a requested accommodation, the Planning Director, or his or her designee, shall make all of the following findings for "Category B" requests:

1. That the housing, which is the subject of the request for reasonable accommodation, will be used by people with disabilities protected under fair housing laws.
2. That the accommodation is necessary to afford people with disabilities an equal opportunity to use and enjoy the dwelling;
3. That the requested accommodation will not require a fundamental alteration to zoning laws, rules, policies, practices and procedures; and
4. That the requested accommodation will not impose an undue financial or administrative burden on the City.

None of the findings of this Section are intended to supersede any other findings which might also be required for a discretionary permit that is reviewed concurrently with the request for accommodation (see Section 17.131.030 (D)).

(Ord. No. 13357, § 3(Exh. A), 2-16-2016; Ord. No. 13247, § 3(Exh. A), 7-15-2014)

17.131.070 Finality of decision and appeal of determination.

A. "Category A" and "Category B" Requests.

1. For requests for reasonable accommodations not involving one or more unrelated land use permits, a decision by the Planning Director, or his or her designee, shall become final ten (10) calendar days after the date of initial decision, unless appealed to the City Administrator by the applicant. In the event that the last date of appeal falls on a weekend, holiday or when City offices are closed, the next date such offices are open for business shall be the last date of appeal. Appeals considered by the City Administrator, in consultation with the City's ADA Programs Division, shall be final immediately and are not appealable.
2. For requests for reasonable accommodations involving one or more land use permits, the Planning Director, or his or her designee, shall act on the request for reasonable accommodations, subject to the appeal process described in 17.131.070(A)(1). The appeal periods in 17.131.070(A)(1) shall run from the date of the denial of the permit or the modification or denial of the provisional permit, whichever is later. The appropriate decision making body shall act on all discretionary permits including appeal processes for the discretionary permits.

(Ord. No. 13247, § 3(Exh. A), 7-15-2014)



CITY OF OAKLAND

250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612-2031
 Zoning Information: 510-238-3911
www.oaklandnet.com/planning

REQUEST FOR REASONABLE ACCOMMODATIONS Fair Housing Protections for Individuals with Disabilities

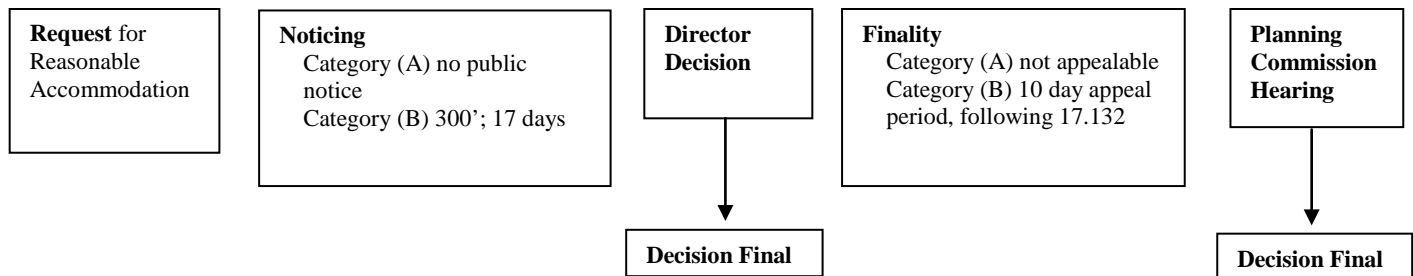
1. PROCESS

If no other land use permit is required, you may submit a request for reasonable accommodation directly to the Planning and Zoning Division at regular zoning counter hours. The zoning counter hours are provided below. If another permit such as a Conditional Use Permit or an application for Regular Design Review is also required, the request for Reasonable Accommodation should be submitted concurrently with the other permit. When submitted concurrently, the procedure will be the same as for the land use permit. Typically, such permits require an appointment for submittal.

ZONING COUNTER HOURS

M, T, Th, F 8:00 a.m. - 4:00 p.m.
 Wednesday 9:30 a.m. - 4:00 p.m.

See Zoning Code section 17.131.050 for the Reasonable Accommodations review procedure. A summary flowchart of the Reasonable Accommodations process is provided below.



2. PROPERTY OWNER AND APPLICANT INFORMATION

NAME OF APPLICANT: _____

RELATIONSHIP TO PERSON(S) WITH DISABILITY: _____

AFFILIATION OR ORGANIZATION (IF APPLICABLE): _____

DAYTIME PHONE NUMBER: _____

APPLICANT'S ADDRESS: _____

PROPERTY ADDRESS/ ASSESSOR'S PARCEL NUMBER: _____

PROPERTY OWNER NAME (IF DIFFERENT FROM ABOVE): _____

PROPERTY OWNER PHONE NUMBER: _____

PROPERTY OWNER'S MAILING ADDRESS: _____

3. GENERAL INFORMATION

WHAT TYPE OF BUILDING IS THE SUBJECT OF THE REQUEST FOR ACCOMMODATION:

- ☐ Single family residential
- ☐ Duplex
- ☐ Apartment building
- ☐ Other, describe: _____

CURRENT USE OR ACTIVITY ON THE PROPERTY _____

BASIS FOR THE CLAIM THAT THE INDIVIDUAL HAS A DISABILITY UNDER THE FEDERAL FAIR HOUSING AMENDMENTS ACT OF 1988 AND THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT (ATTACH ADDITIONAL PAGES AS NECESSARY):

DESCRIPTION OF THE REQUESTED ACCOMMODATION, AND THE ZONING CODE PROVISION, REGULATION OR POLICY FOR WHICH ACCOMMODATION IS BEING REQUESTED. PLEASE CITE THE APPLICABLE CODE PROVISIONS AND THE ACCOMMODATION REQUESTED FROM THE PROVISION.

- ☐ Photographs and/or drawings of the property and structure (i.e. floor plan and site plan), and proposed alterations to the property are attached to this application.

DESCRIBE WHY THE REQUESTED ACCOMMODATION IS NECESSARY FOR THE TENANT/RESIDENT(S) OF THE PROPERTY WITH THE DISABILITY TO USE AND ENJOY THE DWELLING.

DESCRIBE THE POTENTIAL IMPACT OF THE ACCOMMODATION TO SURROUNDING LAND USES AND NEIGHBORS.

IF APPLICABLE

1. Do you have a county, state or federal license or certification with respect to the use of the property? (If yes, attach a photo-copy to this application)

2. Describe all services to be offered on the premises.

3. Do you provide services to non-residents? _____

4. Does this request relate to a group home? _____

If so,

- Name of the group home _____
- The current number of residents in the group home _____
- The proposed number of residents for the group home _____
- The current number of staff members for the group home _____
- The proposed number of staff members for the group home _____
- Whether the group home will provide housing for adults or minors _____

To be completed if Applicant is not the Property Owner:

I authorize the applicant indicated above to submit the application on my behalf. _____

Signature of Property Owner