



COMMUNITY DEVELOPMENT AGENCY

December 3, 2013

Brian C. Crawford
DIRECTOR

Marin County Civic Center
3501 Civic Center Drive
Suite 308
San Rafael, CA 94903
415 473 6269 T
415 473 7880 F
415 473 2255 TTY

Building and Safety
Environmental Health Services
Planning
Environmental Review
Housing
Sustainability
Code Enforcement
GIS
Federal Grants

www.marincounty.org/cda

Board of Supervisors
County of Marin
3501 Civic Center Drive
San Rafael, California 94903

SUBJECT: Reasonable Accommodation Ordinance

Dear Board Members:

RECOMMENDATION:

Review the administrative record, conduct a public hearing and consider adoption of the Reasonable Accommodation Ordinance.

SUMMARY: A first reading of the reasonable accommodation ordinance was held on November 12, 2013, at which time members of the public had an opportunity to comment and the ordinance was read by title only. The proposed reasonable accommodation ordinance is intended to remove governmental constraints to the maintenance, improvement, and development of housing for persons with disabilities. Senate Bill 520, effective January 1, 2002, requires local jurisdictions to conduct an analysis of potential and actual constraints upon the development, maintenance and improvement of housing for persons with disabilities and demonstrate local efforts to remove governmental constraints that hinder the jurisdiction from meeting the need for housing for persons with disabilities (Government Code Section 65583(a)(4)). Approval of this Ordinance will assist the County's effort to obtain certification of its recently adopted Housing Element.

DISCUSSION:

The Fair Housing Amendments Act of 1988 prohibits cities and counties from discriminating against individuals with disabilities through land use and zoning decisions and procedures. Not only must local governments not discriminate, but the Fair Housing Act requires that cities and counties provide reasonable accommodation in rules, policies, practices and procedures where such accommodation may be necessary to afford individuals with disabilities equal opportunity to housing. Together with SB 520, the intent of these laws is to address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing for persons with disabilities. Adopting a reasonable accommodation ordinance is just one of several necessary components for complying with fair housing laws.

The law requires that all Housing Elements include a program to provide reasonable accommodations for housing designed for, or intended for occupancy by, persons with disabilities (Section 65583(c)(3)). The Housing Element contains programs to

address possible constraints on housing for individuals with disabilities. The reasonable accommodation ordinance implements program 2.g.a from the Housing Element, which states:

2. g Ensure Reasonable Accommodation. *Consistent with SB 520 enacted January 1, 2002, reduce barriers in housing for individuals with disabilities through the following actions:*

- a. Establish a written Reasonable Accommodation procedure for providing exceptions in zoning and land use for housing for persons with disabilities.
- b. *Amend the Development Code to clarify that retrofitted access ramps are permitted in setback areas.*
- c. *Develop guidelines and a model ordinance encouraging the principles of universal design. Evaluate possible incentives to developers who incorporate principles of universal design and advance visitability.*
- d. *Consider allowing up to 50% reduction in parking requirements for disabled housing, as allowed for senior housing.*

It is common to utilize an exception or use permit process to accommodate requests such as construction of special structures or appurtenances (i.e., access ramps or lifts) needed by persons with physical disabilities. While these requests may be handled through an administrative procedure, the standards used to evaluate such deviations may conflict with laws applicable to housing for persons with disabilities. As a result, State law recommends that localities adopt programs to establish an administrative reasonable accommodation procedure for providing exceptions from zoning and building standards for housing for persons with disabilities.

The most common type of reasonable accommodation requests in the County are for accessible ramps and lifts. Given Marin County's high percentage of elderly adults, it is expected that these types of access improvements will increase over time. The proposed reasonable accommodation ordinance will assist disabled residents by making the permit review process more transparent and efficient.

The proposed ordinance would allow reasonable accommodation requests for zoning and building standards to be approved at the staff level if the required findings are met (as shown in the table below). The proposal would follow the same procedures as those utilized for Second Units, except that the applicant could appeal to the Board of Supervisors if they disagreed with the decision. This would provide the greatest flexibility and responsiveness to requests for reasonable accommodation by not including a process for noticing and public comment.

No fee is proposed for processing a reasonable accommodation request. Any other applicable fees (e.g. building permits) for the physical improvement would apply. Many jurisdictions across the State do not charge a fee and this option is recommended by the Department of Housing and Community Development (HCD) and many disability rights advocates.

Summary - Reasonable Accommodation Ordinance

Public Notice	None
Appeal	Applicant can appeal to the Board of Supervisors
Findings	(1) Whether 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; (2) Whether the requested accommodation is necessary to make housing available to an individual with disabilities protected under the fair housing laws; (3) Whether the requested accommodation would impose an undue financial or administrative burden on the County; (4) Whether the requested accommodation would require a fundamental alteration in the nature of the jurisdiction's land use and zoning or building program; and (5) Whether there is an alternative accommodation which may provide an equivalent level of benefit to the applicant.
Fees	None

FISCAL/STAFFING IMPACT: In order to ensure there are no barriers to applying for a request for reasonable accommodation; no fee is proposed. We do not expect this to make a significant impact because of the limited number of requests for projects involving reasonable accommodations. However, if the volume of requests exceeds our projections, we will report back to the Board of Supervisors and work with the County Administrator to ensure that we meet our net county cost targets.

REVIEWED BY:

- | | |
|--|---|
| <input type="checkbox"/> Auditor Controller | <input checked="" type="checkbox"/> N/A |
| <input checked="" type="checkbox"/> County Counsel | <input type="checkbox"/> N/A |
| <input type="checkbox"/> Human Resources | <input checked="" type="checkbox"/> N/A |

Respectfully Submitted,



Brian C. Crawford
Agency Director



Leelee Thomas
Principal Planner

Attachments:

- 1: Reasonable Accommodation Ordinance