

ORDINANCE NO. 2009-040

Adopted by the Sacramento City Council

August 25, 2009

ADDING CHAPTER 17.198 TO TITLE 17 OF THE SACRAMENTO CITY CODE (THE ZONING CODE) RELATING TO REQUESTS FOR REASONABLE ACCOMMODATION IN THE APPLICATION OF THE CITY'S LAND USE REGULATIONS (LR-09-001)

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

Section 1. Chapter 17.198 is added to Title 17 of the Sacramento City Code (the Zoning Code) to read as follows:

Chapter 17.198

Requests for Reasonable Accommodation under the Federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act

17.198.010 Purpose.

The purpose of this chapter is to establish a formal procedure for individuals with disabilities seeking equal access to housing to request reasonable accommodation in the application of the City's land use and zoning standards, regulations, policies, and procedures and to establish relevant criteria to be used when considering such requests.

17.198.020 Findings.

The Council of the City of Sacramento finds as follows:

- A. Housing that is accessible to people with disabilities has been identified as a special housing need in the 2008-2013 Housing Element of the City's General Plan.
- B. Implementation Program 84 of the 2008-2013 Housing Element calls for a reasonable accommodation ordinance that streamlines and formalizes City procedures related to accessibility and adaptability accommodations for development.
- C. Both the Federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act (Gov. Code §12900 *et seq.*) ("the Acts") impose an affirmative duty on local governments to make reasonable accommodation (modifications or exceptions) in their rules, policies,

practices, or services related to land use regulation when such accommodation may be necessary to afford an individual with a disability an equal opportunity to housing.

- D. The City of Sacramento has historically provided for reasonable accommodation consistent with the Acts through the use of existing regulatory procedures not specifically designed for people with disabilities.
- E. Codification of a formal procedure for individuals with disabilities seeking equal access to housing to request reasonable accommodation in the application of the City's land use and zoning standards, regulations, policies, and procedures and establishment of relevant criteria to be used when considering such requests will ensure prompt, fair and efficient handling of such requests in accordance with the fair housing laws' reasonable accommodation mandate.

17.198.030 Definitions.

"Acts" means the Federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act.

"Applicant" means an individual who files an application for reasonable accommodation under this chapter.

"Individual with a disability" means any person who has a medical condition, physical disability, or mental disability that substantially limits one or more of the person's major life activities, as those terms are defined in the California Fair Employment and Housing Act (Cal. Gov. Code §12900 *et seq.*).

"Reasonable accommodation" means a modification or exception to the standards, regulations, policies, and procedures contained in this title for the siting, development and use of housing or housing-related facilities, that would eliminate regulatory barriers and provide an individual with a disability equal opportunity for the use and enjoyment of housing of their choice, and that does not impose undue financial or administrative burdens on the City or require a fundamental or substantial alteration of the City's planning and zoning programs.

17.198.040 Applicability.

To make specific housing available to an individual with a disability, any person may request reasonable accommodation under this chapter to modify a land use or zoning standard, regulation, policy, and procedure under this title as may be necessary to afford the individual with a disability equal opportunity to the use and enjoyment of their dwelling. A request for reasonable accommodation shall be made by filing an application under section 17.198.050.

17.198.050 Application requirements.

A. Application.

An application for reasonable accommodation shall be submitted on a form prescribed by the planning director, or in the form of a letter addressed to the planning director, and shall contain the following information:

1. The name, address and telephone number of the applicant;
2. The name, address, and telephone number of the individual with a disability for whom the reasonable accommodation is being requested;
3. The name, address, and telephone number of the owner of the property for which the reasonable accommodation request is being made;
4. If the applicant is someone different than the property owner, a letter of agency or authorization signed by the owner consenting to the application being made;
5. The address and current use of the property for which the reasonable accommodation request is being made;
6. The basis for the claim that the individual to be reasonably accommodated is disabled under the Acts;
7. A description of the reasonable accommodation request and the land use or zoning standard, regulation, policy, or procedure to be modified or waived; and
8. A statement of the reason why the requested accommodation is necessary for the individual with a disability to use and enjoy the dwelling.

B. Review with other land use applications.

If the project for which the application for reasonable accommodation is being made requires approval of one or more other entitlements under this title, then the applicant shall file the application for reasonable accommodation under subsection A with the application for the other entitlement, for concurrent review and action.

- C. Any information related to a disability status and 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.
- D. If an individual needs assistance in making the request for reasonable accommodation, the City will provide assistance to ensure that the process is accessible.

- E. A request for reasonable accommodation 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.

17.198.060 Review authority.

- A. Planning Director Review.

- 1. An application for reasonable accommodation shall be reviewed by the planning director if the application for reasonable accommodation is not filed with an application for another entitlement.
- 2. If the application does not otherwise require a design review or a preservation application, the planning director shall consult with the design director if the application involves a property that is located in a design review district, or with the preservation director if the application involves a property that is located in a historic district or a structure that is 50 years old or older or is a landmark.

- B. Other Reviewing Authority.

An application for reasonable accommodation submitted for concurrent review with another entitlement under this title shall be reviewed by the authority reviewing the other entitlement.

17.198.070 Review procedure.

- A. Planning Director Review.

- 1. Written notice of the filing of an application for reasonable accommodation shall be mailed by the planning director to the owners of real property within a radius of one hundred (100) feet from the exterior boundaries of the subject property utilizing the owner names and addresses shown on the latest county equalized assessment roll. The notice shall be mailed no later than the next business day following the date the application is filed and accepted as complete and shall describe the scope and nature of the requested reasonable accommodation.
- 2. Within thirty (30) days of acceptance of the application as complete, the planning director shall issue a written decision to grant, grant with modifications, or deny an application for reasonable accommodation in accordance with section 17.198.080 and shall notify the applicant of the decision. The written decision shall explain in detail the basis of the decision, including the Planning Director's findings on the factors stated in

section 17.198.080. If necessary to reach a determination on the request for reasonable accommodation, the Planning Director may request additional information from the applicant consistent with the Acts, specifying in detail the information that is required. If a request for additional information is made, the thirty (30) period to issue a decision is stayed until the applicant responds to the request.

3. Upon making a decision on the application, the planning director shall mail written notice of the decision and the right to appeal the decision to the same property owners who received notice of the application under subsection (A)(1). The notice shall be mailed no later than the next business day following the date the written decision is issued.

B. Other Reviewing Authority.

If the application for reasonable accommodation is submitted for concurrent review with another entitlement under this title, the decision to grant, grant with modifications, or deny the application shall be made by the authority taking action on the other entitlement under this title. The decision to grant, grant with modifications, or deny the request for reasonable accommodation shall be made in accordance with section 17.198.080.

17.198.080 Findings and decision.

A. Findings.

The decision to grant, grant with modifications, or deny an application for reasonable accommodation shall be based on a finding of consistency with the Acts and shall take into consideration all of the following factors:

1. Whether the housing or housing related facilities, which are the subject of the request, will be used by an individual with a disability under the Acts.
2. Whether the request for reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Acts.
3. Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the City.
4. Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a city program or law, including but not limited to land use and zoning.
5. Whether the requested reasonable accommodation would be contrary to the public health, safety, or welfare, or be injurious to the property or improvements of adjacent properties.

6. Whether the requested reasonable accommodation adequately considers the physical attributes of the property and structures.
 7. Whether alternative reasonable accommodations could provide an equivalent level of benefit.
- B. Conditions of Approval.

In granting a request for reasonable accommodation, the reviewing authority may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation will comply with the findings required by this section. Conditions may be imposed to ensure that any removable structures or physical design features that are constructed or installed in association with the reasonable accommodation be removed once those structures or physical design features are unnecessary to afford the individual with a disability for whom the reasonable accommodation was granted the use and enjoyment of the dwelling.

17.198.090 Appeals.

A. Decision of Planning Director.

1. Any person who is dissatisfied with a decision made by the planning director on an application for reasonable accommodation may appeal the planning director's decision. The Planning Director will consider the nature of the appeal and determine whether the Planning Commission, Preservation Commission, or Design Commission shall hear the appeal. The appeal shall be filed within 10 days of the planning director's decision. Upon filing of the notice of appeal, the planning director shall set the matter for hearing before the commission to occur not later than 45 days from the date of filing. Notice of the appeal hearing shall be given by mail to the applicant not later than ten (10) days prior to the hearing. Except as provided otherwise in this subsection (A)(1), the procedural requirements for the hearing before a commission on appeal shall be governed by Chapter 17.200 of this title.
2. The decision of the commission on the appeal shall be made in accordance with section 17.198.080 and shall be final. Notwithstanding section 17.200.040, the decision of the commission on the appeal shall not be subject to call-up under 17.200.040.

B. Decision by Other Reviewing Authority.

A decision on an application for reasonable accommodation submitted for concurrent review with another entitlement under this title shall be subject to the same appeal rights and call-up procedures as apply to the other entitlement.

C. Reasonable Accommodation in Appeal Procedures.

An applicant may request reasonable accommodation in the procedure by which an appeal will be conducted.

17.198.100 Fee.

Notwithstanding any other provision of this code, there shall be no fee imposed in connection with an application for reasonable accommodation, including appeals, under this chapter.

Section 2. Severability.

If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

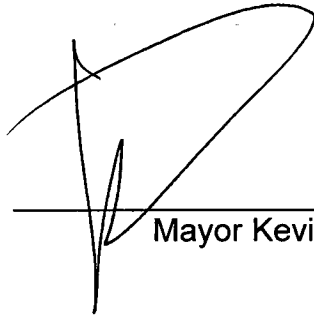
Adopted by the City of Sacramento City Council on August 25, 2009 by the following vote:

Ayes: Councilmembers Cohn, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, Waters, and Mayor Johnson.

Noes: None.

Abstain: None.

Absent: None.



Mayor Kevin Johnson

Attest:



Shirley Concolino, City Clerk

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