

CITY OF ALAMEDA ORDINANCE No. _____
New Series

ADDING SECTION 30-5.17 REASONABLE ACCOMMODATION TO
THE ALAMEDA MUNICIPAL CODE TO PROVIDE REGULATIONS
REGARDING REASONABLE ACCOMMODATION

WHEREAS, the federal Fair Housing Act and the California Fair Employment and Housing Act have enacted laws to address barriers to housing opportunities for individuals with disabilities; and

WHEREAS, California Housing Element law required local jurisdictions to specifically address the issue of reasonable accommodation in the 2007-2014 Housing Element; and

WHEREAS, the City of Alameda adopted the most current version of the Housing Element on July 3, 2012; and

WHEREAS, the Housing Element includes Implementation Measure 1.j., Reasonable Accommodation, to provide a process to accommodate housing needs of persons with disabilities and streamline the permit review process; and

WHEREAS, the Alameda Municipal Code (AMC) Section 30-5 addresses General Provisions and Exceptions; and

WHEREAS, the proposed Section 30-5.17 is an appropriate location for addressing Reasonable Accommodation; and

WHEREAS, the project is Categorically Exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines, Section 15305, Minor Alterations in Land Use Limitations, as the addition of Section 30-5.17 would result in minor alterations of a land use limitation.

BE IT ORDAINED by the City Council of the City of Alameda:

Section 1. SECTION 30-5.17 of the Alameda Municipal Code is hereby amended to add language as follows:

30-5.17 Reasonable Accommodation

30-5.17.1 – Purpose

30-5.17.2 – Applicability

30-5.17.3 – Application Requirements

30-5.17.4 – Review Authority

30-5.17.5 – Review Procedure

30-5.17.6 – Findings and Decision

30-5.17.7 – Appeal of Determination

30-5.17.1 – Purpose

The purpose of this section is to provide a procedure to request reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the California Fair Employment and Housing Act (together, the Acts) in the application of zoning laws and other land use regulations, policies, and procedures.

30-5.17.2 – Applicability

- a. A request for reasonable accommodation may be made by any person with a disability, their representative or any entity, when the application of a zoning law or other land use regulation, policy or practice acts as a barrier to fair housing opportunities. A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment. This section is intended to apply to those persons who are defined as disabled under the Acts.
- b. 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.
- c. A reasonable accommodation is granted to the household that needs the accommodation and does not apply to successors in interest to the site.
- d. A reasonable accommodation may be granted in compliance with this section without the need for the approval of a variance.
- e. Requests for reasonable accommodation shall be made in the manner prescribed in Section 30-5.17.3 Application Requirements.

30-5.17.3 – Application Requirements

- a. Application. A request for reasonable accommodation shall be submitted on an application form provided the Community Development Department, or in the form of a letter, to the Community Development Director and shall contain the following information:
 - 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 Zoning Ordinance provision, regulation, or policy for which reasonable accommodation is being requested; and
 6. Why the reasonable accommodation is necessary to accommodate the functional daily need of the disabled individual.
- b. Review with Other Land Use Applications. If the project for which the request for reasonable accommodation is being made also requires some other discretionary approval (including but not limited to: Use Permit, Design Review, General Plan amendment, zone change, etc.), then the applicant shall file the information required by Subsection a. (Application) above together with the application for discretionary approval.

30-5.17.4 – Review Authority

- a. Community Development Director. A request for reasonable accommodation shall be reviewed by the Community Development Director (Director), or his/her designee if no approval is sought other than the request for reasonable accommodation.
- b. Other Review Authority. Requests for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be reviewed by the authority reviewing the discretionary land use application.

30-5.17.5 – Review Procedure

- a. Director Review. The Director, or Director designee, shall make a written determination within 45 days and either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with Section 30-5.17.6 Findings and Decision.
- b. Other Reviewing Authority. The written determination on whether to grant or deny the request for reasonable accommodation shall be made by the authority responsible for reviewing the discretionary land use application in compliance

with the applicable review procedure for the discretionary review. The written determination to grant or deny the request for reasonable accommodation shall be made in accordance with Section 30-5.17.6 Findings and Decision.

30-5.17.6 – Findings and Decision

- a. Findings. The written decision to grant or deny a request for reasonable accommodation will be consistent with the Acts and shall be based on consideration of the following factors:
 1. Whether the housing, which is the subject of the request, will be used by an individual with a disability as defined 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 design review, historic preservation, land use and zoning.
 5. Potential impact on surrounding uses.
 6. Physical attributes of the property and structures; and
 7. Alternative reasonable accommodations which may provide an equivalent level of benefit.
- b. Condition 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 would comply with the findings required by Subsection a above. The conditions shall also state whether the accommodation granted shall be removed in the event that the person for whom the accommodation was requested no longer resides on the site.

30-5.17.7 – Appeal of Determination

A determination by the reviewing authority to grant or deny a request for reasonable accommodation may be appealed to the Planning Board in compliance with Section 30-25, Appeals or Calls for Review.

Section 2. This Ordinance shall be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage.

Section 3. Severability Clause: It is the declared intent of the City Council that if any section, subsection, sentence, clause, phrase, or provision of this Ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

Presiding Officer of the Council

Attest:

Lara Weisiger, City Clerk

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I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by Council of the City of Alameda in regular meeting assembled on the 18th day of March 2014, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 19th day of March, 2014.

Lara Weisiger, City Clerk
City of Alameda