

Chapter 17.38 Reasonable Accommodation**Sections:****17.38.010 Purpose.****17.38.020 Application – General.****17.38.030 Application – Contents.****17.38.040 Criteria for granting accommodations****17.38.050 Reviewing authority****17.38.010 Purpose.**

In accordance with federal and state law, it is the policy of the city to provide disabled persons reasonable accommodations as necessary to ensure equal access to their dwelling unit and/or place of business. The purpose of this section is to provide a clear and defined process for disabled persons to make reasonable accommodation requests from existing standards in the city's development code.

17.38.020 Application – General.

Any disabled person, or his or her representative, may request a reasonable accommodation from the application of a land use or zoning regulation, policy, practice or procedure when necessary to afford such persons equal opportunity to use and enjoy their dwelling unit or place of business.

17.38.030 Application – Contents.

- A. Application. A disabled person or his/her representative who desires to request a reasonable accommodation may file an application with the department. A reasonable accommodation may be approved only for the benefit of one or more individuals with a disability. An application for a reasonable accommodation from a land use or zoning regulation, policy, or practice shall be made on a form provided by the department. No fee will shall be required for a request for reasonable accommodation, but if the project requires another discretionary permit, then the prescribed fee shall be paid for that discretionary permit.
- B. If a project for which a reasonable accommodation request is made requires another discretionary approval, then the applicant may file the reasonable accommodation request together with the application for the other discretionary approval. The processing procedures of the non-reasonable accommodation discretionary approval shall govern the joint processing of both the reasonable

accommodation request and the non-reasonable accommodation discretionary permit.

C. Application Contents. In addition to the materials required under other applicable provisions of this code, the applicant is required to submit the following information with the application:

1. The applicant's name, address, and telephone number.
2. If not the applicant, the identity of the disabled person(s), and the applicant's relation to the disabled person(s).
3. Identification and description of the disability which is the basis for the request for reasonable accommodation. The applicant shall include current written certification of the disability and a description of the disability's effects on the individual's medical, physical or mental limitations.
4. The specific exception or modification to this development code, or other land use or development regulation, policy, or practice requested by the applicant.
5. Documentation that the specific exception or modification requested by the applicant is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy his or her residence or business. Where appropriate, the applicant shall include a summary of any alternatives to the reasonable accommodation
6. Copies of memoranda, correspondence, pictures, plans, or background information reasonably necessary for the review authority to reach a decision regarding the need for reasonable accommodation.
7. Other supportive information deemed necessary by the city to facilitate proper consideration of the request so long as any request for additional information complies with state and federal law.

17.38.040 Criteria for granting accommodations.

A reasonable accommodation request will be reviewed in accordance with the following procedures:

A. Findings. The written decision to approve, conditionally approve, or deny a request for reasonable accommodation shall be based on the following findings, all of which are required for approval:

1. The requested accommodation is requested by or on behalf of one or more individuals with a disability protected by federal or state law.
2. The requested accommodation is necessary to provide accommodation is requested by or on behalf of one or more individuals with a disability protected by federal or state law.
3. The requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy their dwelling or business.
4. The requested accommodation will not impose an undue financial or administrative burden to the city.
5. The requested accommodation will not result in a fundamental alteration of a neighborhood's character or will not substantially undermine any express purpose of the General Plan or any applicable specific plan.
6. The requested accommodation will not, under the specific facts of a case, result in a direct threat to the health and safety of other individuals or substantial physical damage to the property of others.

In making these findings, the review authority may approve alternative reasonable accommodations which provide an equivalent level of use and enjoyment.

B. Conditions. Any modifications granted for an individual with a disability may, at the discretion of the review authority, be considered as a personal accommodation for the individual applicant and may, at the determination of the review authority, not run with the land. The conditions of approval may, where deemed appropriate, provide for any or all of the following:

1. Inspection of the affected property periodically, as specified in the conditions, to verify compliance with this chapter and with any applicable conditions of approval.
2. Prior to any transfer of interest in the property, notice to the transferee of the existence of the modification, and the requirement that the transferee apply for a new modification as necessary. Once such transfer takes effect, the originally approved modification shall have no further validity.
3. Other necessary conditions deemed necessary to protect the public health, safety, and welfare.

17.38.050 Review Authority

- A. Director's review. Requests for reasonable accommodation shall be reviewed by the director, if no discretionary approval is sought other than the request for reasonable accommodation.

The director shall issue a written decision on a request for reasonable accommodation within forty five days of the date of the application and may either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with the required findings set forth in Section 17.38.040.

If necessary to reach a determination on the request for reasonable accommodation, the director may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request for additional information is made, the forty five day period to issue a decision is stayed until the applicant responds to the request.

- B. Concurrent review. A request 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. The written determination on whether to grant or deny the request for reasonable accommodation shall be made by the review authority 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 17.38.040 of this section.

17.38.060 Discontinuance

Unless the review authority determines a reasonable accommodation runs with the land, a reasonable accommodation shall lapse if the rights granted by it are discontinued for one hundred and eighty consecutive days. If the person initially occupying a residence or business vacate, the reasonable accommodation shall remain in effect only if the director determines that (i) the modification is physically integrated into a structure and cannot easily be removed or altered to comply with the municipal code; (ii) its removal would constitute an unreasonable financial burden; and (iii) the accommodation is necessary to give another disabled individual an equal opportunity to enjoy the dwelling or business. The director may request the applicant or his or her successor-in-interest to the property to provide documentation that subsequent occupants are persons with disabilities. Failure to provide such documentation within ten days of the date of a request by the director shall constitute grounds for discontinuance by the city of a previously approved reasonable accommodation.