

ORDINANCE NO. 1147

AN ORDINANCE OF THE CITY OF FOLSOM ADDING CHAPTER 17.116 TO THE FOLSOM MUNICIPAL CODE REGARDING REASONABLE ACCOMMODATION

The City Council of the City of Folsom does hereby ordain as follows:

SECTION 1 PURPOSE

The purpose of this ordinance is to add Chapter 17.116 to the Folsom Municipal Code to provide a procedure for individuals with disabilities to request reasonable accommodation in seeking equal access to housing under the federal Fair Housing Act and the California Fair Employment and Housing Act in the application of zoning laws and other land use regulations, policies, and procedures.

SECTION 2 ADDITION TO CODE

Chapter 17.116 is hereby added to the Folsom Municipal Code to read as follows:

Chapter 17.116 REASONABLE ACCOMMODATION

Sections:

17.116.010	Purpose
17.116.020	Applicability
17.116.030	Procedure
17.116.040	Approval findings
17.116.050	Conditions of approval
17.116.060	Appeals

17.116.010 Purpose

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

17.116.020 Applicability

A. A request for reasonable accommodation may be made by any person with a disability or their representative, when the application of a requirement of this zoning code or other City requirement, policy, or practice acts as a barrier to fair housing opportunities. For the purposes of this chapter, a “person with a disability” is any 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 chapter 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 only 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 Chapter without the need for the approval of a variance.

17.116.030 Procedure

A. A request for reasonable accommodation shall be submitted on an application form provided by the Community Development Department or in the form of a letter to the Director of Community Development Department, 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 use of the property;
4. The basis for the claim that the individual is considered disabled under the Acts, including verification of such claim;
5. The zoning code provision, regulation, or policy from which reasonable accommodation is being requested; and
6. Why the reasonable accommodation is necessary to make the specific property accessible to the individual.

B. If the project for which the request for reasonable accommodation is being made requires some other discretionary approval (such as use permit, design review...etc.), then the applicant shall file the information required by subsection (A) of this section for concurrent review with the application for discretionary approval.

C. A request for reasonable accommodation shall be reviewed by the Director of Community Development Department or his/her designee, if no approval is sought other than the request for reasonable accommodation. The Director or his/her designee shall make a written determination within 45 days of the application being deemed complete and either grant, grant with modifications, or deny a request for reasonable accommodation.

D. A request for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be reviewed by the Planning Commission or the Historic District Commission. The written determination on whether to grant or deny the request for reasonable accommodation shall be made by the Planning Commission or the Historic District Commission upon consideration of the findings in Section 17.116.040.

17.116.040 Approval 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:

- A. Whether the housing in the request will be used by a person with a disability under the Acts;
- B. Whether the request for reasonable accommodation is necessary to make specific housing available to a person with a disability under the Acts;
- C. Whether the requested reasonable accommodation would impose an undue financial, administrative or enforcement burden on the City;
- D. 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;
- E. Potential impact on surrounding uses;
- F. Physical attributes of the property and structures; and
- G. Other reasonable accommodations that may provide an equivalent level of benefit.

17.116.050 Conditions of approval

In granting a request for reasonable accommodation, the Director of Community Development Department or his/her designee, or the Planning Commission or the Historic District Commission as the case might be, may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings. 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.

17.116.060 Appeals

A. Any person dissatisfied with any action of the Director of the Community Development Department pertaining to this Chapter may appeal to the Planning Commission or the Historic District Commission within 10 days after written notice of the Director's decision is sent to the applicant. The appeal is taken by filing a written notice of appeal with the Director of Community Development Department and shall specify the reasons for the appeal and the grounds asserted for relief.

B. Any person dissatisfied with any action of the Planning Commission or the Historic District Commission pertaining to this Chapter may appeal to the City Council within 10 days after the rendition of the decision of the Planning Commission or the Historic District Commission. The appeal is taken by filing a written notice of appeal with the City Clerk and shall specify the reasons for the appeal and the grounds asserted for relief.

C. The City Council shall, by resolution, adopt and from time to time amend a fee for the filing of appeals. Such fee shall be for the sole purpose of defraying costs incurred for the

administration of appeals. The fee for an appeal shall be paid at the time of and with the filing of an appeal. No appeal shall be deemed valid unless the prescribed has been paid.

D. If an appeal is not filed within the time or in the manner prescribed in this section, the right to review of the action against which the complaint is made shall be deemed to have been waived.

E. After filing an appeal, the appropriate hearing body shall conduct a public hearing for the purpose of determining whether the appeal should be granted. Written notice of the time, date and place of hearing shall be given to the appellant, and to any other persons who have filed a written request for notice. Such notices shall be mailed to the appellant and the applicant at least ten days prior to the hearing.

F. The Planning Commission, the Historic District Commission, or City Council shall review de novo the entire proceeding or proceedings relating to the decision, and may make any order it deems just and equitable, including the approval, conditional approval, or denial of the application. Any hearing may be continued from time to time.

G. At the conclusion of the hearing, the hearing body shall prepare a written decision which either grants or denies the appeal and contains findings of fact and conclusions. A copy of the written decision shall be provided to the appellant and the project applicant.

SECTION 3 SCOPE

Except as set forth in this ordinance, all other provisions of the Folsom Municipal Code shall remain in full force and effect.

SECTION 4 SEVERABILITY

If any section, subsection, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid and unconstitutional.

SECTION 5 EFFECTIVE DATE

This ordinance shall become effective thirty (30) days from and after its passage and adoption, provided it is published in full or in summary within twenty (20) days after its adoption in a newspaper of general circulation in the City.

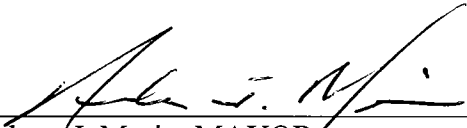
On a motion by Council Member Starsky seconded by Council Member Howell, the foregoing ordinance was passed and adopted by the City Council of the City of Folsom, State of California, this 14th day of June 2011, by the following vote to wit:

AYES: Council Member(s): Starsky, Howell, Miklos, Sheldon, Morin

NOES: Council Member(s): None

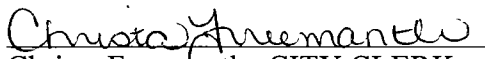
ABSENT: Council Member(s): None

ABSTAIN: Council Member(s): None



Andrew J. Morin, MAYOR

ATTEST:



Christa Freeman, CITY CLERK

Effective: July 14, 2011