

**TOWN OF SAN ANSELMO ORDINANCE NO. 1100**  
**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO**  
**ADOPTING TITLE 10 CHAPTER 10 (REASONABLE ACCOMMODATION) OF THE**  
**SAN ANSELMO MUNICIPAL CODE**

WHEREAS, the Federal Fair Housing Act (42 U.S.C. 3601 *et seq.*) and California Fair Employment and Housing Act (California Government Code § 12900 *et seq.*) prohibit discrimination against individuals with disabilities in housing and require cities to take affirmative steps to eliminate obstacles to housing opportunities for people with disabilities; and

WHEREAS, the strict application of land use, zoning and building regulations can deprive disabled individuals of potential housing opportunities; and

WHEREAS, California Government Code section 65583(c)(3) requires municipalities to remove governmental constraints to and provide reasonable accommodation for, housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities; and

WHEREAS, to ensure that sufficient housing is available within the Town of San Anselmo for persons with disabilities, the Town Council desires to provide flexibility in the application of land use, zoning and building laws; and

WHEREAS, Implementing Program H4.C of the Town of San Anselmo's 2007-2014 Housing Element directs the Town to establish internal review procedures or an ordinance to provide individuals with disabilities reasonable accommodation in rules, policies, practices and procedures that may be necessary to ensure equal access to housing; and

WHEREAS, the adoption of a Reasonable Accommodation Ordinance is categorically exempt from California Environmental Quality Act (CEQA) pursuant to Section 15061.b.3 of the CEQA Guidelines because adoption of this zoning ordinance amendment is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment, and this project does not have the potential for causing a significant effect on the environment; and

WHEREAS, adoption of Reasonable Accommodation Ordinance is consistent with the Town of San Anselmo's General Plan.

NOW THEREFORE, the Town Council of the Town of San Anselmo does hereby ordain as follows:

Section 1. Title 10, Chapter 10 of the Town of San Anselmo Municipal Code is adopted to read as follows:

### **10-10.01 Purpose.**

This article provides a procedure to request reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act (42 U.S.C. 3601 *et seq.*) and California Fair Employment and Housing Act (California Government Code § 12900 *et seq.*) (hereinafter "the Acts") in the application of zoning laws and other land use regulations, policies and practices.

### **10-10.02 Applicability.**

A request for reasonable accommodation may be made by any person with a disability, his/her 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 article is intended to apply to those persons who are defined as disabled under the Acts.

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. Requests for reasonable accommodation shall be made in the manner prescribed in section 10-10.03.

### **10-10.03 Application requirements.**

- A. Application. Requests for reasonable accommodation shall be submitted on an application form provided by the Town's Planning Department, or in the form of a letter to the Planning Director and shall contain all of the following information:
1. The applicant's name, address and telephone number.
  2. The address of the property for which the request is being made.
  3. The property owner's name and contact information, if different from applicant.
  4. The current actual use of the property.
  5. The basis for the claim that the individual is considered disabled under the Acts.
  6. The zoning code provision, regulation or policy that is the subject of the applicant's requested reasonable accommodation, and a narrative and graphic (where applicable) description of the specific accommodation requested.
  7. The reasons why reasonable accommodation is necessary to make the specific property accessible to the individual.

- B. Review with other land use applications. If the project for which the request for reasonable accommodation is being made requires one or more discretionary approvals (including, but not limited to, conditional use permit, site plan and architectural review, encroachment permit, etc.), then the applicant shall file the information required by subsection A at the same time the applicant submits the application(s) requiring discretionary approvals.

**10-10.04 Review authority.**

- A. Planning Director. Requests for reasonable accommodation shall be decided by the Planning Director, unless the applicant is also seeking approval of an application that requires Planning Commission or Town Council approval.
- B. Other review authority. Requests for reasonable accommodation submitted with an application requiring Planning Commission or Town Council approval, shall be decided by the appropriate reviewing authority.

**10-10.05 Review procedure.**

- A. Planning Director Review. The Planning Director shall make a written decision within forty-five (45) days and either grant, conditionally grant, or deny a request for reasonable accommodation in accordance with section 10-10.06. The Director shall mail a notice of a request for reasonable accommodation to contiguous property owners, as shown on the latest equalized Marin County assessment roll, but may include other property owners as determined by the Director. Said notice shall be mailed at least ten (10) days prior to making a decision.
- B. Other Reviewing Authority. The written decision to grant, conditionally grant or deny the request for reasonable accommodation shall be made by the Planning Commission or Town Council along with the related discretionary permit application in accordance with the applicable procedure for the discretionary permit. The written decision to grant, conditionally grant or deny the request for reasonable accommodation shall be made in accordance with section 10-10.06.
- C. Notice of Decision. Notice of a written decision by the Planning Director or other reviewing authority shall be mailed to contiguous property owners, as shown on the latest equalized Marin County assessment roll, but may include other property owners as determined by the Director.

**10-10.06 Findings, other requirements, and decision.**

- A. Findings. The written decision to grant, conditionally grant or deny a request for reasonable accommodation shall be consistent with the Acts and shall be based on a consideration of the following factors:
  - 1. Whether the housing that is the subject of the request will be used by an individual considered disabled 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 Town.
  4. Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a Town program, policy, practice and/or regulation, including but not limited to land use or zoning.
  5. Whether the requested reasonable accommodation would adversely impact surrounding properties or uses.
  6. Whether there are reasonable alternatives that would provide an equivalent level of benefit without requiring a modification or exception to the Town's applicable programs, policies, practices and/or regulations.
  7. Whether the accommodation would alter the significance of an historic structure.
- B. Other requirements.
1. An approved request for reasonable accommodation is subject to the applicant's compliance with all other applicable regulations.
  2. An accommodation approved under this article is considered a personal accommodation for the individual applicant and does not run with the land.
- C. Conditions of approval. In granting a request for reasonable accommodation, the Planning Director or 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 subsection A above. These conditions include, but are not limited to the following:
1. Inspection of the property to verify compliance with this article and any conditions of approval.
  2. Removal of improvements at the time the need for a reasonable accommodation is no longer necessary, where removal would not constitute an unreasonable financial burden on the applicant.
  3. Time limits and/or expiration of the approval of a reasonable accommodation if the need for which the reasonable accommodation was granted no longer exists.
  4. Recordation of a deed restriction requiring removal of the accommodating feature once the need for it no longer exists.
  5. Measures to reduce the impact on surrounding uses.
  6. Measures in consideration of the physical attributes of the property and structures.
  7. Other conditions necessary to protect the public health, safety and welfare.

**10-10.07 Appeal of determination.**

A decision by the Planning Director or Planning Commission to grant or deny a request for reasonable accommodation may be appealed pursuant to Section 1-4.01.

Section 2. The adoption of this Ordinance is exempt from the application of the California Environmental Quality Act (CEQA), Public Resources Code section 21000, *et seq.*, in accordance with Section 15061.b.3 of the CEQA Guidelines; and

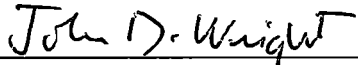
Section 3. If any section or portion of this Ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

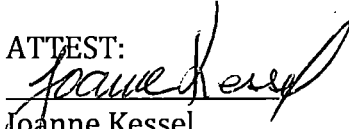
Section 4. This Ordinance shall be published once within fifteen (15) days after its passage and adoption in a newspaper of general circulation in the Town of San Anselmo.

Section 5. This Ordinance shall be in full force and effect thirty (30) days after the date of its adoption.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the San Anselmo Town Council on the 9th day of December, 2014 and was adopted at a regular meeting on the 13th day of January 2015, by the following vote:

AYES: Councilmembers: Coleman, Greene, Kelly, McInerney, Wright  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

  
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John D. Wright, Mayor

ATTEST:  
  
Joanne Kessel  
For Barbara Chambers, Town Clerk