



STAFF REPORT

SAUSALITO CITY COUNCIL

AGENDA TITLE

Housing Element Implementation: Reasonable Accommodations Municipal Code Amendments (ZOA 14-007)

RECOMMENDED ACTION

Staff recommends the City Council waive the second reading, read by title only and adopt "An Ordinance of the City Council of the City of Sausalito Establishing Written Procedures for Requesting and Granting a Reasonable Accommodation Consistent with State and Federal Statutes" (**Attachment**)

This staff report supplements the staff report dated June 24, 2014 (available online: <http://www.ci.sausalito.ca.us/Index.aspx?page=43>)

SUMMARY

The attached ordinance establishes procedures for granting reasonable accommodations with respect to zoning, permit processing and building regulations (see **Attachment**).

BACKGROUND

On June 24, 2014 the City Council conducted a public hearing and received public testimony on the Reasonable Accommodations Ordinance. At the public hearing the Council voted 5:0 to introduce the ordinance for the Reasonable Accommodations regulations (see **Attachment**).

FISCAL IMPACT

No fiscal impacts are anticipated.

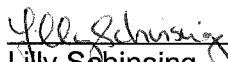
RECOMMENDATION

Staff recommends the City Council waive the second reading, read by title only and adopt "An Ordinance of the City Council of the City of Sausalito Establishing Written Procedures for Requesting and Granting a Reasonable Accommodation Consistent with State and Federal Statutes" (**Attachment**)

ATTACHMENT

Draft Reasonable Accommodations Ordinance

PREPARED BY:


Lily Schinsing
Administrative Analyst

REVIEWED BY:


Mary Wagner
City Attorney

SUBMITTED BY:


Adam W. Politzer
City Manager

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ORDINANCE NO. 1221

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAUSALITO
AMENDING TITLE 12 OF THE SAUSALITO MUNICIPAL CODE TO:
ADD SECTION 12.36 ESTABLISHING SPECIFIC WRITTEN PROCEDURES FOR
REQUESTING AND GRANTING A REASONABLE ACCOMMODATION
CONSISTENT WITH STATE AND FEDERAL STATUTES AND
MODIFY CHAPTER 10.88 TO ADD DEFINITIONS RELATED TO REASONABLE
ACCOMMODATIONS
ZOA/SPA 14-007**

WHEREAS, the Federal Fair Housing Amendments Act of 1988 and California Fair Employment and Housing Act require local jurisdictions to establish a process by which persons with disabilities can request reasonable accommodations to the jurisdiction's codes, rules, policies, practices or services, necessary to afford persons with disabilities an equal opportunity to use or enjoy a dwelling; and

WHEREAS, on October 9, 2012 the Housing Element was adopted by the City Council; and

WHEREAS, On November 7, 2012 the California Department of Housing and Community Development certified the adopted Housing Element to be in conditional compliance with Housing Element Law; and

WHEREAS, the adopted Housing Element contains Program 25, Reasonable Accommodation Procedures, to establish specific written procedures for requesting and granting a reasonable accommodation consistent with State and Federal statutes; and

WHEREAS, Section 10.80.070 allows for amendments of the Zoning Ordinance (Title 10 of the Sausalito Municipal Code) whenever the City Council determines that public necessity, convenience, or welfare would be served; and

WHEREAS, Section 10.80.070.C requires the Planning Commission to provide a recommendation to the City Council on proposed Zoning Ordinance amendments; and

WHEREAS, from January 2014-April 2014 a subcommittee of the City Council and Planning Commission held six public meetings regarding the 2009-2014 Housing Element Implementation Amendments; and

WHEREAS, on March 15, 2014 a publicly-noticed Community Workshop was held to discuss the 2009-2014 Housing Element Implementation Amendments; and

WHEREAS, on May 21, 2014 the Planning Commission conducted a duly-noticed public hearing at which time all interested persons were given an opportunity to be heard; and

WHEREAS, on May 21, 2014 the Planning Commission adopted Planning Commission Resolution No. 2014-11, which recommended City Council adoption of an Ordinance regarding the Reasonable Accommodations Ordinance; and

WHEREAS, on June 24, 2014 and July 8, 2014 the City Council conducted duly-noticed public hearings at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the project is categorically exempt from California Environmental Quality Act (CEQA) pursuant to Section 15305 of the CEQA Guidelines which exempts minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density and Section 15061.b.3 of the CEQA Guidelines because adoption of the 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 the Reasonable Accommodations Ordinance is consistent with the General Plan, including Program 25 regarding reasonable accommodations procedures and Land Use Policy HE-5.4 regarding housing for persons with disabilities.

THE CITY COUNCIL OF THE CITY OF SAUSALITO DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. A new Section 12.36 is hereby added to the Sausalito Municipal Code to read as follows:

- A. Purpose. The purpose of this chapter is to establish a procedure for requesting 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 (the Acts) in the application of zoning and building laws and other land use regulations, policies and procedures.
- B. Applicability.
 - 1. Definition of Disability. Under the Acts, an individual with a disability is someone who has a physical or mental impairment that limits one or more major life activities; anyone who is regarded as having such impairment; or anyone with a record of such impairment. Individuals in recovery from drug or alcohol abuse are protected by federal and state fair housing laws although individuals currently using illegal substances are not protected under the law unless they have a separate disability. This chapter is intended to apply to those persons who are defined as disabled under the Acts.
 - 2. Scope of Accommodation. A request for a 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 an individual with a disability

equal opportunity to housing of their choice. Requests for reasonable accommodation shall be made in the manner prescribed by Section 12.36.D (Application Contents and Submittal), and shall not require a fundamental alteration to the City's zoning or building laws, policies, and/or procedures, as defined under the Acts. A modification approved under this chapter is considered a personal accommodation for the individual applicant and does not run with the land.

3. Eligibility to Request Accommodation. A request for reasonable accommodation may be made by any individual with a disability, his or her representative, or a developer or provider of housing for individuals with disabilities, when the application of a land use, zoning or building regulation, policy, practice or procedure acts as a barrier to fair housing opportunities.
- C. Notice to the Public of Availability of Accommodation Process. Notice of the availability of reasonable accommodation shall be displayed at the public information counter in the Community Development Department advising the public of the availability of the procedure for eligible individuals. Forms for requesting reasonable accommodation shall also be made available.
- D. Application Contents and Submittal. Requests for reasonable accommodation shall be submitted on an application form provided by the 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, and the name, address and telephone number of the property owner.
 3. The current existing use of the property.
 4. The basis for the claim that the individual is considered disabled under the Acts.
 5. The zoning code provision, regulation or policy from which reasonable accommodation is being requested.
 6. Reason the requested accommodation may be necessary to make the specific property accessible to the individual.
- E. Authority.
1. Community Development Director. Requests for reasonable accommodation shall be reviewed by the Community Development Director if no approval is sought other than the request for reasonable accommodation.
 2. 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.
- F. Review Procedure.
1. Director Review. The Community Development Director, or his/her designee, shall make a written determination within 45 days of submittal of a complete application and either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with Section G (Findings and

Decision). The Director shall mail a notice of a request for reasonable accommodation to contiguous owners of property, 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 days prior to making a determination.

2. Other Reviewing Authority. Written determinations on requests for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be made by the authority responsible for reviewing the discretionary land use application. The written determination to grant or deny the request for reasonable accommodation shall be made in accordance with Section 12.36.G (Findings and Decision).
3. Additional Information. If necessary to reach a determination on the request for reasonable accommodation, the reviewing authority may request further information from the applicant consistent with the Acts, specifying in detail the information that is required. In the event that a request for additional information is made, the 45 day period to issue a decision is stayed until the applicant responds to the request.
4. The reviewing authority may approve an alternative reasonable accommodation that provides the applicant an opportunity to use and enjoy a dwelling equivalent to that provided by the specific accommodation requested, where such an alternative accommodation would:
 - a. Reduce impacts to neighboring properties or the surrounding area; or
 - b. Not require a deviation from the provisions of Title 8 or Title 10 of the Municipal Code or would require less of a deviation than the requested accommodation.

G. Findings and Decision.

1. Findings. The reasonable accommodation shall be approved, with or without conditions, if the reviewing authority finds, based upon all of the evidence presented, that all of the following findings can be made:
 - a. The housing, which is the subject of the request, will be occupied by an individual considered disabled under the Acts.
 - b. The requested accommodation is necessary to provide a disabled individual with an equal opportunity to use and enjoy a dwelling.
 - c. The requested accommodation would not impose an undue financial or administrative burden on the City, as defined under the Acts.
 - d. The requested accommodation would not require a fundamental alteration to the City's zoning or building laws, policies, and/or procedures, as defined under the Acts. In considering whether the accommodation would require such a fundamental alteration, the reviewing authority may consider, among other factors:
 - 1) Whether the requested accommodation would fundamentally alter the character of the neighborhood; and
 - 2) Whether the requested accommodation would substantially undermine any express purpose of either Sausalito's General Plan or an applicable specific plan.

- e. There are no other reasonable accommodation(s) that would allow the applicant to use and enjoy the dwelling which would:
 - 1) Be less impactful to neighboring properties or the surrounding area; or
 - 2) Not require a deviation from the provisions of Title 8 or Title 10 of the Municipal Code or would require less of a deviation than the requested accommodation.

- H. 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 would comply with the findings required by Subsection A above, including but not limited to the following:
 - 1. Inspection of the property periodically, as specified, to verify compliance with this section and any conditions of approval.
 - 2. Recordation of a deed restriction requiring removal of the improvements when the need for which the accommodation was granted no longer exists, except where the Director finds that removal would constitute an unreasonable financial burden and/or is physically integrated with the structure and cannot feasibly be removed.
 - 3. Time limits and/or expiration of the approval if the need for which the accommodation was granted no longer exists.
 - 4. Measures to reduce the impact on surrounding uses.
 - 5. Measures in consideration of the physical attributes of the property and structures.
 - 6. Other conditions necessary to protect the public health, safety and welfare.
- I. Written Decision. The written decision on the request for reasonable accommodation shall explain in detail the basis of the decision, including the reviewing authority's findings required by Section 12.36.F (Findings and Decision) above. All written decisions shall give notice of the applicant's right to appeal and to request reasonable accommodation in the appeals process as set forth below.
- J. Appeals. A determination by the reviewing authority to grant or deny a request for reasonable accommodation may be in compliance with Chapter 10.84 (Appeals) of the Sausalito Municipal Code. Appeals shall be submitted on an application form provided by the Community Development Department. If an individual needs assistance in filing an appeal on an adverse decision, the City will provide assistance to ensure the appeals process is accessible.

Section 2. Section 10.88.040 of the Sausalito Municipal Code is hereby amended to add the following definition:

Director. The Community Development Director or his/her designee.

Section 3. 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 15305 (Minor Alterations in Land Use Limitations) and Section 15061.b.3 of the CEQA Guidelines; and

Section 4. 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 5. This Ordinance shall be in full force and effect thirty (30) days after the date of its adoption.

Section 6. This Ordinance shall be published once within fifteen (15) days after its passage and adoption in a newspaper of general circulation in the City of Sausalito.

THE FOREGOING ORDINANCE was read at a regular meeting of the Sausalito City Council on the 24th day of June 2014, and was adopted at a regular meeting of the City Council on the 8th day of July, 2014 by the following vote:

AYES:	COUNCILMEMBER:
NOES:	COUNCILMEMBER:
ABSENT:	COUNCILMEMBER:
ABSTAIN:	COUNCILMEMBER:

Mayor

ATTEST: _____
Debbie Pagliaro, City Clerk

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