

# “EXHIBIT A”

## DIVISION 28. - REASONABLE ACCOMMODATIONS POLICY AND PROCEDURES

### Sec. 30-354. - Purpose and Intent.

The intent of the Reasonable Accommodations Policy and Procedure regulations is to provide flexibility in the application of the Zoning and Development Code for individuals with a disability when flexibility is necessary to eliminate barriers to housing opportunities. This Article will facilitate compliance with federal and state fair housing laws and promote housing opportunities for Fontana residents.

The purpose of this Article is to establish a procedure to make it easier for persons with disabilities seeking fair access to housing to make requests for reasonable accommodation as established in the Fontana's Zoning and Development Code, rules, policies, practices, and procedures pursuant to the Fair Housing Act and California Fair Employment and Housing Act.

### Sec. 30-355. - Applicability.

- (1) Any individual with a disability, his or her representative, or a provider of housing for individuals with disabilities may seek relief from any land use, zoning or building standard, regulation, policy, or procedure found in Chapter 5 of the Fontana Municipal Code (Buildings and Building Regulations) and Chapter 30 of the Fontana Municipal Code (Zoning and Development Code) to ensure equal access to housing and to facilitate the development of housing for individuals with disabilities by requesting a reasonable accommodation in the manner prescribed in Section 30-356.
- (2) The reasonable accommodation rules set forth in this chapter apply to proposals to modify existing structures and uses as well as new development, as necessary to reasonably accommodate a person(s)'s disability. Proposals to modify structures, especially single-family homes, should respect existing development patterns to the extent reasonably possible.

### Sec. 30-356. - Definitions.

Except where the context otherwise requires, the definitions below govern the construction of this Article.

- (1) "Applicant" means a person, business, or organization making a request to the city for reasonable accommodation.
- (2) "City" means the City of Fontana.
- (3) "Code" means the Fontana Municipal Code.
- (4) "Department" means the community development department.
- (5) "Director" means the director of community development or his or her designee.
- (6) "Fair Housing Laws" means the "Fair Housing Amendments Act of 1988" (42 U.S.C. § 3601, et seq.), including reasonable accommodation required by 42 U.S.C. § 3604(f)(3)(B), and the "California Fair Employment and Housing Act" (California

Government Code Section 12900, et seq.), including reasonable modifications required specifically by California Government Code Sections 12927(c)(1) and 12955(l), and Civil Code § 54, as any of these statutory provisions now exist or may be amended from time to time by either legislative act or published judicial decisions.

- (7) "Person with a disability" means an individual with a "disability" or "handicap," as those terms are defined in the Fair Housing Laws, like 42 U.S.C. § 3602(h) and California Government Code Section 12926(j) and (m), as modified from time to time. Generally, a "person with a disability" is any person with any a physical or mental impairment which substantially limits one or more of such person's major life activities.
- (8) "Reasonable accommodation" means a modification or exception to the standards, regulations, policies, and procedures contained in this Code 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 for the use and enjoyment of housing of their choice.

**Sec. 30-357. - Requesting reasonable accommodation.**

- (1) Notice of the City of Fontana's Reasonable Accommodations Policy and Procedures shall be displayed at public information counters in the planning and building offices of the City, and the City Clerk's office.
- (2) The department will create an application form to make it easier for applicants and their representatives to submit a request for a reasonable accommodation and easier for staff to process such requests. The form will request the following information:
  - (a) The name, address and telephone number of the applicant.
  - (b) Address of the property for which the request is being made.
  - (c) The name, address, and telephone number of the owner of the property for which the reasonable accommodation request is being made.
  - (d) A general description of the nature of the person(s) with a disability's medical, physical, and/or mental limitations that relate to the accommodation request. The applicant shall not be required to disclose any medical diagnoses or provide written medical documentation of the disability.
  - (e) The policy, program, regulation, and/or development standard adopted by the City of Fontana that the applicant is requesting the City modify as a disability-related accommodation.
  - (f) A description of how the applicant is proposing to modify the City's policy, program, regulation, and/or development standard.
  - (g) A description of why the accommodation is reasonable and necessary for the needs of the person(s) with a disability.
  - (h) Copies of any plans, drawings, pictures, and other supporting documentation that the City may need to render its decision.

- (i) Any other information the applicant believes would facilitate the City's decision.
- (3) If an individual or representative needs assistance making a request for reasonable accommodation, the department shall provide assistance to ensure that the process is accessible to the applicant or representative.
- (4) The applicant may be represented at all stages of the proceeding by a person designated by the applicant as his or her representative.
- (5) If the applicant is someone other than the property owner, the applicant must provide a letter of agency or authorization signed by the property owner consenting to the request.
- (6) To the extent allowed by law, the City shall treat requests for a disability-related reasonable accommodation as confidential information of the City. In particular, the City shall, to the extent allowed by law, maintain the confidentiality of any medical information and/or medical documentation provided by applicant. The City shall provide written notice to the applicant, and any person designated by the applicant to represent the applicant in the application proceedings, of any request received by the City for disclosure of the applicant's medical information.

**Sec. 30-358. - Review authority and procedures.**

Review Authority. Requests for reasonable accommodations under this Article shall be reviewed in the following manner:

**Sec. 30-359. - Decision on application.**

- (1) The director may approve, conditionally approve, or deny an application for a reasonable accommodation for an existing use or a proposed new use. The director shall issue a written determination within thirty (30) calendar days of the date of receipt of a completed application. The director may:
  - (a) Grant the accommodation request in full,
  - (b) Grant the request subject to specified nondiscriminatory conditions that are consistent with the requested reasonable accommodation, or
  - (c) Deny the request.
- (2) Stays. 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. If the director requests further information, then the 30-day period to issue a decision is stayed until the applicant responds to the director's request for further information.
- (3) Extensions. The applicant and director may agree to an extension of time for the director to review and make a decision on the reasonable accommodation request.
- (4) Notice of Decision. Notice of the director's determination shall be mailed to the applicant. The notice of the director's decision shall state the facts and evidence upon which the director's decision was based in connection with the findings stated in Section 30-360.

- (5) Other Approvals. If the project for which the request for a reasonable accommodation is made also requires a separate discretionary permit or approval, then the director may condition that the reasonable accommodation valid only upon approval of the separate discretionary permit or other zoning approval.
- (6) Variances. A reasonable accommodation that is granted pursuant to this chapter shall not require the approval of any variance as to the reasonable accommodation.

**Sec. 30-360. - Required findings.**

- (1) To approve a request for reasonable accommodation, the director must make both of the following findings:
  - (a) The applicant has demonstrated that the housing, which is the subject of the request for reasonable accommodation, will be occupied by a person with a disability.
  - (b) The applicant has demonstrated that the request for reasonable accommodation is necessary to make specific housing available to one or more person(s) with a disability.
- (2) If the director can make the findings outlined above, then the director shall approve the reasonable accommodation request unless the director can make one or more of the following findings:
  - (a) The City has demonstrated that the requested reasonable accommodation will, under the specific facts of the case, impose an undue financial or administrative burden on the City.
  - (b) The City has demonstrative that the requested accommodation will, under the specific facts of the case, require a fundamental alteration of a land use, zoning or building standard, regulation, policy, or procedure of the City.
  - (c) The City has demonstrative that the requested reasonable accommodation will, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.
- (3) If the director denies the request based on one or more of the findings set forth in paragraph (1) above, then at the applicant's request, the director shall engage in an interactive process with the applicant to explore whether an alternative accommodation could provide the person(s) with a disability access to the housing without creating an undue burden, fundamental alteration, or direct threat.
- (4) The director may offer the applicant an alternate reasonable accommodation that provides an equivalent level of access to the person(s) with a disability but will not result in an encroachment into required setbacks, permitted exceedance of height limits, lot coverage or floor area ratio requirements specified for the applicable zoning district. When exploring alternate accommodations, the director should defer to the applicant to decide what accommodation will best meet the needs of the person(s) with a disability.

**Sec. 30-361. - Conditions of approval.**

In granting a request for a reasonable accommodation, the director may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required by Section 30-360, the Fair Housing Laws, and the intent of this Article. Such conditions may generally include, but are not limited to, the following:

- (1) The City's general/standard conditions of approval applicable to all projects;
- (2) The applicant's compliance with all other applicable zoning regulations;
- (3) A modification approved under this Article is considered a personal request for accommodation by the applicant and shall not run with the land;
- (4) The reasonable accommodation shall terminate within a specified period of time if a person with a disability who requires the accommodation no longer resides on the property;
- (5) When the accommodation is no longer necessary, the improvements shall be removed within a specified period of time, provided removal would not constitute an unreasonable financial burden;
- (6) Time limits and/or expiration of the approval if it can be determined that the applicants' reasons for approving the accommodation no longer exists;
- (7) The property owner must record a deed restriction notifying prospective owners and occupants that the accommodation must be removed once it is no longer needed;
- (8) Methods, design considerations and features that reduce any impacts on surrounding uses;
- (9) Methods, design considerations and features that preserve the integrity of the property and structures; and
- (10) Any other conditions necessary to protect the public health, safety and welfare of Fontana residents.

**Sec. 30-362. - Appeals.**

- (1) Any applicant who is dissatisfied by the decision made by the director on an application for a reasonable accommodation may appeal the director's decision to the Deputy City Manager. The appeal shall be filed via written notice detailing the grounds for appeal and shall specify whether the applicant would like a meeting with the Deputy City Manager before the Deputy City Manager decides the appeal. If an applicant or applicant's representative needs assistance submitting an appeal, the department shall provide assistance to ensure that the process is accessible to the applicant or representative.
- (2) A request for an appeal must be submitted to the director within sixty (60) days of the mailing of the director's decision.

- (3) Upon the receipt of an appeal, the director will promptly forward the appeal to the Deputy City Manager. If the applicant did request a meeting with the Deputy City Manager, then the Deputy City Manager shall schedule the meeting to occur not later than sixty (60) days from the date of receipt of the appeal. This time period may be extended based on the applicant's availability.
- (4) The Deputy City Manager shall decide the appeal within thirty (30) days of either: (1) the date the City received the appeal if the applicant did not request a meeting; or (2) the date of the applicant's meeting with the Deputy City Manager.

**Sec. 30-363. - Expiration, revocation, termination.**

- (1) Expiration. Any reasonable accommodation approved under this Article will expire within twelve (12) months from the effective date of approval or at such alternative time specified as a condition of approval unless:
  - (a) A building permit has been issued and construction has commenced;
  - (b) A certificate of occupancy has been issued;
  - (c) The use is established; or
  - (d) A time extension has been granted by the director.
- (2) Termination. The reasonable accommodation is granted to the person(s) with a disability and shall not run with the land. If accommodation is no longer necessary (e.g., because the person(s) with a disability no longer resides at the premises), then the reasonable accommodation will remain in effect only if the director determines that:
  - (a) The modification is physically integrated into the residential structure and cannot easily be removed or altered to comply with this code, or
  - (b) The accommodation is necessary to give another person with a disability an equal opportunity to enjoy the dwelling.
- (3) The director may request that any successor-in-interest to the property provide documentation that one or more subsequent occupant is a person(s) with a disability needing the reasonable accommodation. Failure to provide such documentation within thirty (30) calendar days of the date of a written request by the director will result in the termination of a previously approved reasonable accommodation and the applicable premises shall subsequently be made to conform to code.

**Sec. 30-364. - Waiver of time periods.**

Notwithstanding any provisions in this chapter regarding the occurrence of any action within a specified period, the applicant may request additional time beyond that provided for in this chapter or may request a continuance regarding any decision or consideration by the city of the pending appeal. Extensions of time sought by applicants shall not be considered delay on the part of the city, shall not constitute failure by the city to provide for prompt decisions on applications and shall not be a violation of any required time set forth in this chapter.