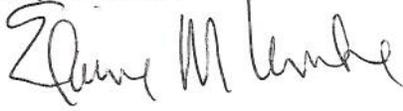


## ANALYSIS

An ordinance amending Title 21 – Subdivisions and Title 22 – Planning and Zoning of the Los Angeles County Code establishing procedures for individuals with disabilities to request reasonable accommodations with respect to planning and land use regulations to obtain an equal opportunity to use and enjoy a residential use.

ANDREA SHERIDAN ORDIN  
County Counsel

By 

ELAINE M. LEMKE  
Principal Deputy County Counsel  
Property Division

EML:vn

Requested: 08-31-11  
Revised: 10-27-11

**ORDINANCE NO. 2011-0067**

An ordinance amending Title 21 – Subdivisions and Title 22 – Planning and Zoning of the Los Angeles County Code establishing procedures for individuals with disabilities to request reasonable accommodations with respect to planning and land use regulations to obtain an equal opportunity to use and enjoy a residential use.

The Board of Supervisors of the County of Los Angeles ordains as follows:

**SECTION 1.** Section 21.52.010 is hereby amended to read as follows:

**21.52.010** **Modification or waiver of provisions authorized when.**

...

D. The Director or the advisory agency may make modifications to regulations contained in this Title 21 pertaining to the consideration of a reasonable accommodation, as provided for in Title 22.

**SECTION 2.** Chapter 22.56 Part 19 is hereby added to read as follows:

**Part 19** **REQUESTS FOR REASONABLE ACCOMMODATION.**

**22.56.3000** **Purpose and intent.**

**22.56.3010** **Applicability.**

**22.56.3020** **Definitions.**

**22.56.3030** **Application – Filing.**

**22.56.3040** **Role of Director and required findings.**

**22.56.3050** **Hearing officer or commission review where concurrent.**

**22.56.3060** **Notice of decision.**

**22.56.3070** **Effective date.**

**22.56.3080            Expiration of reasonable accommodation.**

**22.56.3090            Recorded agreement.**

**22.56.3100            Appeals.**

**22.56.3110            Waiver of fees.**

**22.56.3000            Purpose and intent.**

The purpose of this Part 19 is to implement part of the County's Housing Element in its General Plan and to provide a procedure for individuals with disabilities to request reasonable accommodations, consistent with the federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act, as those Acts are amended from time to time. The sole intent of this Part 19 is to ensure that individuals with disabilities have an equal opportunity to use and enjoy housing by allowing an accommodation or accommodations with respect to certain County regulations, policies, procedures, and standards if said accommodation or accommodations are both reasonable and necessary to provide such equal opportunity without compromising the County's commitment to protecting community character and environmental quality.

**22.56.3010            Applicability.**

The provisions of this Part 19 shall apply to all requirements of this Title 22 as well as all other regulations, policies, procedures, and standards, regulated by the Department of Regional Planning.

**22.56.3020 Definitions.**

As used in this Part 19, the following terms shall have the following meanings.

A. "The Acts" means the federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act, as those Acts are amended from time to time.

B. "Individual with a disability" shall mean individuals with a mental or physical disability as those terms are defined in California Government Code section 12926 (i), (k), and (l), as that section may be amended, and the regulations promulgated thereunder, or individuals with a handicap as that term is defined in 42 U.S.C. section 3602 of the federal Fair Housing Amendments Act of 1988, as that section may be amended, and the regulations promulgated thereunder.

C. "Reasonable accommodation" means a waiver or modification to regulations, policies, procedures, and standards that is both reasonable and necessary for a person with a disability to have an equal opportunity to use and enjoy a residential use. Examples of reasonable accommodation include, if reasonable and necessary, allowing a wheelchair ramp in a required setback, allowing an increase in building height to permit an elevator installation, or allowing an applicant additional time to submit material.

D. "Residential use" means any dwelling as defined by 42 U.S.C. 3602, subsection (b), as that section may be amended from time to time.

**22.56.3030 Application – Filing.**

A. Any individual with a disability, someone acting on his or her behalf, or a provider or developer of housing for individuals with disabilities, desiring to obtain a reasonable accommodation in accordance with this Part 19 shall file an application with the Director.

B. An application for a reasonable accommodation shall contain the following information:

1. Name and address of the applicant and of all persons owning any or all of the subject property;
2. Evidence that the applicant is one of the following:
  - a. The owner of the subject property; or
  - b. Has the written permission of the owner or owners to make such application.
3. Location of the subject property, including address (or vicinity) and Assessor's parcel number(s);
4. Legal description of the subject property;
5. Description of the current use of the property;
6. The specific requirements of Title 22 or other regulations, policies, procedures, and/or standards that are requested to be waived or modified;
7. A statement setting forth the basis for, and necessity of, the request, including verifiable documentation of disability status; and

8. A list, certified to be correct by affidavit or by a statement under penalty of perjury pursuant to section 2015.5 of the California Code of Civil Procedure, of the names and addresses of all persons who are shown on the latest available assessment roll of the County of Los Angeles as owners of the subject parcel of land, owners of all property abutting the exterior boundaries of the subject property, and owners of the closest inhabited property to the subject property in each direction if the abutting property in such direction is uninhabited.

C. The Director may request additional information as he deems reasonably necessary where such request is consistent with the Acts and the privacy rights of the individual with a disability.

**22.56.3040 Required findings and role of Director.**

A. Where a request for a reasonable accommodation is sought in connection with a residential use for which no concurrent application for entitlement under Title 21 or Title 22 is required, the Director shall grant the request based upon the following findings, which he shall make in writing:

1. The requested accommodation is intended to be used by an individual with a disability who resides or will reside on the property;
2. The requested accommodation is necessary to afford an individual with a disability equal opportunity to use and enjoy a residential use;
3. The requested accommodation will not impose an undue financial or administrative burden on the County; and

4. The requested accommodation will not require a fundamental alteration in the nature of the land use and zoning programs of the County.

B. The Director shall deny a request for a reasonable accommodation where the findings set forth in subsection A, above cannot be substantiated, and shall make written findings to that effect.

C. Any reasonable accommodation approval shall include the requirement that such accommodation be removed when it is no longer necessary for the original purpose granted unless in the reasonable discretion of the Director it is so physically integrated into the property or the improvements thereon that the cost or effort to remove it would create an unreasonable hardship.

**22.56.3050 Hearing officer or commission review where concurrent.**

When a request for reasonable accommodation is filed in conjunction with an application for a permit, variance, or any other discretionary land use entitlement as provided by Title 21 and/or Title 22, the Hearing Officer or Commission shall grant or deny a request for a reasonable accommodation concurrently with the decision rendered for such permit, variance, or other discretionary land use entitlement, and shall make findings addressing the criteria set forth in Section 22.56.3040.

**22.56.3060 Notice of decision.**

A. The Director, Hearing Officer, or Commission, as applicable, shall notify the applicant by mail of the action taken on an application for reasonable accommodation; said notice shall include the required findings.

1. Notices of decision on applications considered by the Director pursuant to Section 22.56.3040 shall be issued within 30 days of the date of the application, or within an extended period as mutually agreed upon, in writing, by the applicant and the Director. In addition to the applicant, a copy of the notice of decision by the Director shall be provided by mail to the property owner, owners of all property abutting the exterior boundaries of the subject property in each direction, and owners of the closest inhabited property to the subject property if the abutting property in such direction is uninhabited;

2. Notices of decision on applications considered by a Hearing Officer or the Commission in conjunction with another land use entitlement application pursuant to Section 22.56.3050 shall be provided along with the decision for such other entitlement in accordance with the requirements for such other entitlement. In addition to any other persons required to receive notice of an action on the related entitlement application, a copy of the notice of decision shall also be provided by mail to the property owner, owners of all property abutting the subject property, and owners of the closest inhabited property to the subject property in each direction if the abutting property in such direction is uninhabited.

B. The notice of decision shall include notice of the right to appeal, as set forth in Section 22.56.3100.

**22.56.3070 Effective date.**

The Director's determination on a request for reasonable accommodation becomes effective on the 30th calendar day following the Director's mailing of the notice

of decision. The decision by a Hearing Officer or Commission made in conjunction with another land use entitlement(s) application becomes final on the latest date such related entitlement(s) becomes effective.

**22.56.3080 Expiration of reasonable accommodation.**

A. A reasonable accommodation which is not used within the time specified in the notice of decision or, if no time is specified, within two years after the date of grant of the reasonable accommodation, shall expire and be of no further effect, except that:

1. In cases in which the Director granted the original reasonable accommodation, the Director may extend the time to use it for a period not to exceed one year, provided an application requesting such extension is filed prior to its expiration date; and

2. In the case of a reasonable accommodation granted concurrently and in conjunction with another land use entitlement, the Hearing Officer or Commission may extend the time to use it to correspond with any extensions granted for the use of such related entitlements.

B. A reasonable accommodation shall be considered used within the intent of this section when construction, development, or use authorized by such reasonable accommodation, that would otherwise have been prohibited in the absence of an accommodation being granted, has commenced.

C. A reasonable accommodation shall automatically cease to be of any further force and effect if the use for which such accommodation was granted has

ceased or has been suspended for a consecutive period of two or more years and may be required to be physically removed in accordance with Section 22.56.3040.C.

**22.56.3090 Recorded agreement.**

A. The Director, Hearing Officer, or Commission may require the applicant to record, at the office of the County Recorder, an agreement that the reasonable accommodation granted will be maintained in accordance with the terms of the reasonable accommodation and this Part 19 as a covenant running with the land for the benefit of the County in those instances described in subsection B. The recorded agreement shall also provide that any violation thereof shall be subject to the enforcement procedures of Part 6 of Chapter 22.60.

B. The Director, Hearing Officer, or Commission may require the recorded agreement described in subsection A, if:

1. The accommodation is physically integrated on the property and cannot feasibly be removed or altered, and the structure would otherwise be subject to Part 10 of 22.56; or

2. The accommodation is temporary and required to be discontinued if no longer maintained in compliance with this Part.

C. The Director, Hearing Officer, or Commission may authorize termination of the agreement to maintain the reasonable accommodation described in subsection A after making written findings that the lot or parcel of land is in compliance with all applicable land use and zoning regulations.

D. The property owner is required to record the termination or release of any agreement provided by this Section.

**22.56.3100 Appeals.**

A. An appeal regarding a decision to grant or deny a reasonable accommodation shall be made in writing, pursuant to the procedures and the time limits established in Part 5 of Chapter 22.60.

B. All decisions on an appeal shall address and be based upon the same findings required by Section 22.56.3040.

C. Decisions on an appeal of a decision made by the Director shall be effective on the date of decision and no further administrative appeals may be heard.

D. Decisions on an appeal of a decision made by a Hearing Officer or the Commission made in conjunction with other land use entitlements as set forth in Section 22.56.3050 shall be effective on the same date as is provided for an appeal of the related land use entitlement and any further rights of appeal will be the same as is provided for an appeal of the related land use entitlement.

**22.56.3110 Waiver of fees.**

An applicant requesting a reasonable accommodation shall not be required to pay the County Environmental Assessment fee if the project that is the subject of said request qualifies for either a categorical exemption or statutory exemption under the California Environmental Quality Act.

[2152010ELCC]

SECTION 3. This ordinance shall be published in The Daily Commerce a newspaper printed and published in the County of Los Angeles.



*Mike Antonovich*

Mayor

ATTEST:

*Sachi A. Hamai*

Sachi A. Hamai  
Executive Officer -  
Clerk of the Board of Supervisors  
County of Los Angeles

I hereby certify that at its meeting of November 29, 2011 the foregoing ordinance was adopted by the Board of Supervisors of said County of Los Angeles by the following vote, to wit:

	<u>Ayes</u>
Supervisors <u>Gloria Molina</u>	
<u>Mark Ridley-Thomas</u>	
<u>Zev Yaroslavsky</u>	
<u>Don Knabe</u>	
<u>Michael D. Antonovich</u>	

	<u>Noes</u>
Supervisors <u>None</u>	
_____	
_____	
_____	
_____	

Effective Date: December 29, 2011

Operative Date: \_\_\_\_\_

*Sachi A. Hamai*

Sachi A. Hamai  
Executive Officer -  
Clerk of the Board of Supervisors  
County of Los Angeles

I hereby certify that pursuant to Section 25103 of the Government Code, delivery of this document has been made.

SACHI A. HAMAI  
Executive Officer  
Clerk of the Board of Supervisors

By *Cristal*  
Deputy



APPROVED AS TO FORM:  
ANDREA SHERIDAN ORDIN  
County Counsel

By *Leela Kapur*

Leela Kapur  
Chief Deputy County Counsel