

## CHAPTER 19.87

### REASONABLE ACCOMMODATIONS IN HOUSING

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#### 19.87.010 GENERAL

Discrimination in housing on the basis of race, color, religion, sex, national origin, familial status, and disability is prohibited by federal and state law. Under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts), refusing residency to persons with disabilities, or placing conditions on their residency, and refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling is discrimination. The Acts requires that housing providers allow residents to make reasonable structural modifications to units and public/common areas in a dwelling when those modifications may be necessary for a person with a disability to have full enjoyment of a dwelling. With very few exceptions, the Acts apply to privately and publicly owned housing, including housing subsidized by the federal government or rented through the use of Section 8 voucher assistance.

#### 19.87.020 PURPOSE AND INTENT

- A. **Purpose.** The purpose of this chapter is to provide a formal procedure to request 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 laws and other land use regulations, policies and procedures, and to establish relevant criteria to be used when considering such requests.
- B. **Intent.** Fair housing laws prohibit discrimination against people based on their race, color, religion, national origin, sex, familial status, or disability.

For persons with disabilities, fair housing law extends further to make it illegal to:

1. Fail to make reasonable accommodation in rules, policies, and services to give a person with a disability equal opportunity to occupy and enjoy the full use of a housing unit; and
2. Fail to allow reasonable modification to the premises if the modification is necessary to allow full use of the premises.

#### 19.87.030 IMPLEMENTING REASONABLE ACCOMMODATION

- A. **Use of Service Animals.** Individuals with disabilities have the right to use the services of a guide, signal or trained dog (or other such designated animal), and have such animals in or around their unit. No additional charges or security deposits may be imposed for having a guide, signal or trained animal. Tenants may be liable for any damage caused by their animals.
- B. **Modifications in Policies and Practices by Housing Provider.** At the request of an individual with a disability, a housing provider must make reasonable accommodations in rules, policies, practices or services to provide the individual equal opportunity to use and enjoy the dwelling. This includes, but is not limited to, the following:
1. Making an exemption to a “no pet” policy to enable a disabled tenant to have a service animal.
  2. Changing parking rules to enable a disabled tenant to have parking that meets his/her needs.
- C. **Physical Modifications by Disabled Tenant.** A housing provider must allow disabled individuals to reasonably modify existing premises if the modifications are necessary for the enjoyment of the amenities provided within the premises. The tenant is responsible for the cost of the modification. In some circumstances, a landlord may require that the tenant agree to restore the interior of the premises to the original condition. Examples of reasonable modifications include:
- Widening doorways
  - Lowering cabinets
  - Installing a wheelchair ramp
  - Converting a bathtub to a shower

19.87.040 DISABILITY ELIGIBILITY

- A. **Definition.** This Chapter applies only to those persons who are defined as disabled under the Acts. The Acts define a person with a disability to include persons who are regarded as having an impairment, and persons with a record of an impairment. The Federal Housing Administration (FHA) defines a disabled person as an individual with a physical or mental impairment that substantially limits one or more major life activities, such as walking, talking, seeing, hearing, breathing, performing manual tasks, caring for one's self, learning, and working.
- B. **Other Qualifying Disabilities.** Disabilities are not always obvious. It is important to recognize that disabilities do not always require a person to have an assistive device, such as a cane or hearing aid; disabilities are not always physical and therefore mental impairments such as chronic fatigue syndrome, a learning disability, autism spectrum, and mental illness all fit the FHA's definition. Also, the disease of addiction may qualify as a disability.
- C. **Proof of Disability.** A housing provider may request reliable disability-related information under the following conditions:
1. When it is necessary to verify that the person meets the Act's definition of disability (i.e., has a physical or mental impairment that substantially limits one or more major life activities);
  2. When the disability-related information describes the needed accommodation; and
  3. When the disability-related information demonstrates the relationship between the person's disability and the need for the requested accommodation.
- D. **Who Can Provide Proof of Disability.** Proof of disability can be provided by the individual, including documentation that they are under 65 years of age and receiving Supplemental Security Income or Social Security Disability Insurance benefits. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may also provide verification of a disability. An individual's medical records or detailed information about the nature of a person's disability is not usually necessary for this inquiry and should not be requested.

- E. **Confidentiality.** Once a housing provider has established that a person meets the Act's definition of disability, the provider's request for documentation should be limited to the information necessary to evaluate if the reasonable accommodation is needed because of a disability. Such information must be kept confidential and must not be shared with other persons unless they need the information to make or assess a decision to grant or deny a reasonable accommodation request or unless disclosure is required by law (e.g., a court-issued subpoena requiring disclosure).

#### 19.87.050 APPLICATION REQUIREMENTS

- A. **Application and Fee.** Requests for reasonable accommodation shall be presented in a form approved by the Development Services Department, together with the appropriate fee, as established by resolution adopted by the City Council to be filed with the Planning Division. A Minor Single Family Residential (MSFR) application shall be filed for requests concerning one (1) single family residence. Requests concerning two or more residential units shall be filed on a Minor Development Plan Review (MDPR) application.
- B. **Combined Proceedings.** When the project for which the request for reasonable accommodation is being made includes a discretionary approval under this Title (including but not limited to a conditional use permit, development plan review, variance, general plan amendment or zone change), the application shall be submitted and reviewed at the same time as the related applications by the appropriate approval authority per Chapter 19.54.

#### 19.87.060 REVIEW AUTHORITY

- A. **Approval Authority:**
  - 1. **Administrative Review.** Planning staff has the authority to review the appropriate submitted application and approve requests at the public counter for reasonable accommodation, including whether the applicant is a disabled person within the meaning of this chapter, if the required Findings in Section 19.87.070, FINDINGS AND DECISION, can be made. The appropriate fee shall be collected, and a building permit may be required.

2. **Encroachment into Setback Areas.** When a reasonable accommodation request includes any encroachment into the front or side yard setback area that results in a building size increase above what is allowed in the applicable zoning district with respect to height, lot coverage and floor area ratio maximums, or whenever a reduction in required parking is requested, the Development Services Director or designee shall determine if the proposal substantially conforms to the intent of the appropriate code section, in addition to complying with this reasonable accommodation ordinance provisions.
3. **Unpermitted Conversions.** Unpermitted conversions of garages, play rooms, storage rooms, accessory structures, etc., shall not be considered for occupancy unless such a conversion meets development standards for the zone, and the violation is corrected and/or permitted as required by the Development Services Division through Planning and Building Division review and approval.
4. **Decision.** If an immediate decision cannot be made administratively, the Development Services Director or designee shall render a decision within 10 days after the application is complete, and shall approve, approve with conditions or deny the application, based on the findings set forth below in Section 19.87.070, FINDINGS AND DECISION. The decision shall be in writing and mailed to the applicant.

19.87.070 FINDINGS AND DECISION

- A. **Findings.** Any decision on an application under this chapter shall be supported by written findings addressing the criteria set forth in this subsection. An application under this chapter for a reasonable accommodation shall be granted if all of the following findings are made:
  1. The housing, which is the subject of the request, will be used by an individual disabled as defined under the Acts.
  2. The requested reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Acts.
  3. The requested reasonable accommodation would not impose an undue financial or administrative burden on the City.
  4. The requested reasonable accommodation would not require a fundamental alteration in the nature of a City program or law, including but not limited to land use and zoning.
  5. The requested reasonable accommodation would not adversely impact surrounding properties or uses.

6. There are no reasonable alternatives that would provide an equivalent level of benefit without requiring a modification or exception to the City's applicable rules, standards and practices.

B. **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.

C. **Time Limit.** Improvements for Reasonable Accommodation granted by the City to a property as provided in this Chapter shall run with the rental or lease of the housing unit by the disabled person, and may remain indefinitely. At any time in the future when such improvements are not required, they may be removed by the property owner or housing provider.

#### 19.87.080 APPEAL DETERMINATION

Any decision on an application under this chapter shall be subject to appeal pursuant to Section 19.60.110 of the Perris Municipal Code.

#### 19.87.090 NON-COMPLIANCE

A. **Requirement for Completion of Improvements.** When improvements to housing (new or existing) associated with reasonable accommodation are a condition of approval, such work shall be completed prior to building permit sign-off or certificate of occupancy. If this has not occurred, and a disabled person is waiting to occupy the housing unit, a notice will be issued by the Development Services Department. The notice shall particularly specify the work required to be done and shall state that if the work is not commenced within five (5) days after the receipt of such notice and diligently and without interruption prosecuted to completion, the City shall cause such work to be done, in which case the cost and expense of such work, including incidental expenses incurred by the City, will be assessed against the property or against each separate lot and become a lien upon the property.

B. **Complaints.** A disabled tenant or prospective tenant who believes they are a victim of discrimination may lodge a complaint in the following ways:

1. Contact the Regional Human Rights/Fair Housing Commission.

2. Contact the Department of Fair Employment and Housing (DFEH). DFEH is the state agency authorized to investigate housing discrimination complaints and enforce state fair housing laws.
3. Contact the Department of Housing and Urban Development (HUD). HUD is the federal agency authorized to investigate housing discrimination complaints and enforce federal fair housing laws.
4. File a private lawsuit in state or federal court.

19.87.100 ACCESSIBILITY GUIDELINES

- A. **New Housing.** All new housing construction consisting of three or more dwelling units must be designed and constructed in a manner that allows access to, and use by, disabled persons. See Section 1102A, Housing Accessibility, of the California Building Code 2010.
- B. **Existing Buildings.** Building standards contained in Section 1102A, Housing Accessibility, of the California Building Code 2010 do not apply to the alteration, repair, rehabilitation or maintenance of multifamily dwellings constructed for occupancy prior to March 13, 1991.
- C. **Limited Exceptions for Single Rooms and Roommates.** Reasonable accommodation provisions do not apply when the owner of an owner-occupied, single-family home rents out a room in the home to a roomer or a boarder, and there are no other roomers or boarders living in the household. However, the owner cannot make oral or written statements, or use notices or advertisements which indicate any preference, limitation, or discrimination based on race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability. Further, the owner cannot discriminate on the basis of medical condition or age.