

## Article 22. Density Bonus Provisions and Reasonable Accommodations

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**Sec. 2201. Purpose and Objective:** The purpose of this Article is to achieve compliance with State of California Government Code Sections 65915 et seq. in providing developer incentives for the production of affordable housing units, senior housing, and child care facilities. This chapter establishes a procedure for providing developer incentives to promote affordable housing in conjunction with an application request. Density bonus programs shall be approved only in conjunction with a rezoning or development permit (i.e., subdivision map, or use permit). In the event any conflict between this Article and Section 65915 et seq. of the Government Code, the provisions of the Government Code shall apply. NOTE: Effective January 1, 2015, AB 2222 enacted changes to many provisions of the state's density bonus law, including requirements found at Section 65915, subdivisions (c)(3) and (j)(2) and 65915.5, subdivision (g). Those changes, as well as any subsequent amendments to the law, are hereby incorporated into this Article by reference.

### **Sec. 2202. Definitions for Density Bonus Provisions:**

- A. **Affordable Housing Project:** A housing project which will be made available to and reserved for Very Low-Income Households, Low-Income Households, or Moderate-Income Households at a monthly rent or payment not to exceed 30 percent of the total combine monthly income of the targeted income group.
- B. **Density Bonus:** A density increase over the otherwise maximum allowable residential density as permitted by the applicable zoning district in the Development Code.
- C. **Common-Interest Development:** A community apartment project, a condominium project, a planned unit development, or a stock cooperative.
- D. **Child Care Facility:** An establishment providing child day care services other than a family day care home, including but not limited to, infant centers, preschools, extended day care facilities, and school-age child care centers.
- E. **Housing Project:** A development of five or more residential units, a subdivision or common interest development of five or more unimproved residential parcels, a development project to substantially rehabilitate and convert an existing commercial building to contain five or more residential units, or the substantial rehabilitation of an existing multifamily dwelling where the result of the rehabilitation would be a net increase of five or more residential units.
- F. **Incentive:** Means the waiver or reduction of a County standard, regulation, or requirement as necessary to render an Affordable Housing Project financially feasible.
- G. **Lower Income Households:** Lower Income Households are households whose income does not exceed 80 percent of area median income, adjusted for family size, as defined in Section 50079.5 of the Health and Safety Code.
- H. **Maximum Allowable Residential Density:** The maximum residential density permitted by the applicable zoning district as



established in this Development Code.

- I. **Moderate Income Households:** Persons or families of moderate income are persons or families whose income does not exceed 120 percent of area median income, as defined in Section 50093 of the Health and Safety Code.
- J. **Senior Citizen Housing Developments:** A residential development developed, substantially rehabilitated, or substantially renovated for, Senior Citizens that has at least 35 dwelling units.
- K. **Senior Citizens:** Persons at least 62 years of age or 55 years of age or older in a Senior Citizen housing development, as set forth in Section 51.3 of the Civil Code.
- L. **Very Low Income Households:** Very Low Income households are households whose income does not exceed 50 percent of area median income, adjusted for family size, as defined in Section 50105 of the Health and Safety Code.

**Sec. 2203. General Provisions:** The intent of the density bonus or other provisions is to contribute significantly to the economic feasibility of low income housing and Senior Citizen housing in proposed developments, in compliance with Government Code Sections 65915-65917.

- A. **Statement of Authorization:** Density bonuses may be granted as part of the normal approval process for-site plans, rezonings, or subdivision maps.
  - 1. The Zoning Administrator shall be the decision maker on all Site Plan Reviews (SPRs).
  - 2. The Planning Commission shall be the decision maker on all Conditional Use Permits (CUPs), Planned Unit Developments (PUD's) and subdivision maps for which a density bonus application has been submitted.
  - 3. Any additional incentives, as defined in Section 2203.H, or waiver or modification of development standards, as defined in Section 2203.I, must be approved by the Board of Supervisors.
  - 4. Density bonus agreements must be approved by the Board, which may authorize the Community Development Director to sign individual density bonus agreements on its behalf.
- B. **Developer Obligations:** A developer requesting a density bonus, excluding any units permitted by the density bonus awarded pursuant to this Development Code, shall agree to construct a housing development with one of the following amounts and types of affordable housing:
  - 1. Ten percent of the total units of a housing development for Lower Income Households.
  - 2. Five percent of the total units of a housing development for Very Low Income Households.
  - 3. A Senior Citizen Housing Development, or mobile home park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code. Density bonuses for senior housing projects shall be granted only with a rezoning to the Planned Unit Development (PUD) zone.
  - 4. Ten percent of the total dwelling units in a common interest development as defined in Section 4100 of the Civil Code for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.
- C. **County Obligations:** If a developer agrees to one of the provisions outlined in Section 2203.B above, then the developer may request and the County shall grant one of the following:
  - 1. **Very Low-Income Housing Projects:** Housing projects with at least 5 percent of units affordable to Very Low-Income Households are entitled to a density bonus as shown in Table 22-1 below:



Percent of Very Low-Income Units	Percent of Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11+	35

2. **Lower-Income Housing Projects:** Housing projects with at least 10 percent of units affordable to Lower-Income Households are entitled to a density bonus as shown in Table 22-2 below:

Percent of Lower-Income Units	Percent of Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5
20+	35

3. **Moderate-Income Housing Projects:** Housing projects with at least 10 percent of units affordable to Moderate-Income Households are entitled to a density bonus as shown in Table 22-3 below:

Percent of Moderate-Income Units	Percent of Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13



Table 22-3 Amount of Density Bonus for Moderate-Income Projects	
Percent of Moderate-Income Units	Percent of Density Bonus
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40+	35

**4. Housing Projects with Donations of Land:**

- a. When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to the county in accordance with Government Code Section 65915, the applicant shall be entitled to a 15 percent increase above the otherwise maximum allowable residential density for the entire development, as shown in in Table 22-4 below:

Table 22-4 Amount of Density Bonus for Donations of Land	
Percent of Very Low-Income Units	Percent of Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22



Table 22-4 Amount of Density Bonus for Donations of Land	
Percent of Very Low-Income Units	Percent of Density Bonus
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

- b. This increase shall be in addition to any increase in density mandated by Section 2203.B, up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this Section and Section 2203.B. Nothing in this Section shall be construed to enlarge or diminish the authority of the county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this Section if all of the following conditions are met:
- (1) The applicant donates and transfers land no later than the date of approval of the final subdivision map, parcel map, or residential development application.
  - (2) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to Very Low Income Households in an amount not less than 10 percent of the number of residential units of the proposed developments.
  - (3) The transferred land is a least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate General Plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision c of Section 65583.2 of the Government Code and is or will be served by the adequate public facilities and infrastructure.
  - (4) The transferred land shall have all the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 of the Government Code if the design is not reviewed by the local government prior to the time of transfer.
  - (5) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of Subdivision (c) of Section 65905 of the Government Code, which shall be recorded on the property at the time of transfer.
  - (6) The land transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.
  - (7) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within on-quarter mile of the boundary of the proposed development.



(8) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.

5. **Senior Citizen Housing Developments:** Housing projects for Senior Citizens are entitled to a density bonus. The amount of the density bonus shall be 20 percent of the number of senior housing units. The density bonus applies only to those portions of a senior housing project designated for independent living units.

(Ord. No. 668-1-16, §19, 1/12/16)

6. **Housing Projects that Include a Child Care Facility:** When an applicant proposes to construct a housing development that includes a child care facility that will be located on the premises of, as part of, or adjacent to, the project, and otherwise qualifies for a density bonus, the County shall grant either of the following:

a. Additional Bonus or Incentive:

(1) An additional density bonus that is an amount of square feet of residential space equal to or greater than the amount of square feet in the child care facility.

(2) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

b. The County shall require, as a condition of approving the incentive or concession for inclusion of child care facilities incidental to the housing development that the following occur:

(1) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable.

(2) Of the children who attend the child care facility, the percentage of children who reside in affordable units shall equal or exceed the percentage of dwelling units that are available for Very Low-Income, Low-Income, or Moderate-Income Households.

c. Basis for Denial: The County is not required to provide a density bonus or incentive for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

D. Findings For Denial of Project: Notwithstanding Section 2203.C above, the County shall deny the proposed development if any of the following findings is made:

1. The proposed development does not otherwise conform to the General Plan or applicable zoning and development policies.

2. Due to the density bonuses applied for, the proposed development would have a specific, adverse impact upon the public health or safety, pursuant to Government Code Sections 65589.5, Subdivision (d)(2) and 65915, Subdivision (d)(3), including but not limited to such impacts as causing excessive traffic or placing a demand on infrastructure capacity beyond the delivery capacity of the system; and there is no feasible method to satisfactorily mitigate or avoid the adverse impact identified.

3. The above findings shall be made in addition to other findings prescribed by law.

E. Minimum Development Size: The density bonus provisions of this chapter apply only to proposed developments of five or more dwelling units on contiguous sites that are the subject of one development application.

F. Characteristics of Affordable Housing Units: All affordable housing units shall contain, on average, the same number of bedrooms as the non-designated units in the project, on average, and shall be compatible with the design or use of remaining units in terms of appearance, materials, and finished quality.



G. Distribution of Density Bonus Units:

1. Units designated as very-low, low, or moderate income in order to qualify for a density bonus pursuant to Section 2203.B. shall be reasonably dispersed throughout the project where feasible.
2. A developer of a proposed development containing more than one parcel shall be allowed to build the density bonus units in one section of the proposed development while building the affordable units in another section of the development, provided that proposals for the two sections of the proposed development are approved concurrently.

H. Additional Incentives: If the developer has shown economic necessity, as defined in Section 2206.C below, then the County shall grant an additional incentive. The additional incentive may be any of the following:

1. If the applicant has met the obligations contained with this ordinance and/or Government Code Sections 65915 et seq. and has been granted a density bonus, the applicant may request the County grant additional incentives based on the following criteria:
  - a. One incentive or concession for projects that include at least 10 percent of the total units for Lower Income Households, at least 5 percent for Very Low Income Households, or at least 10 percent for persons and families of moderate income in a common interest development.
  - b. Two incentives or concessions for projects that include at least 20 percent of the total units for Lower Income Households, at least 10 percent for Very Low Income Households, or at least 20 percent for persons and families of moderate income in a common interest development.
  - c. Three incentives or concessions for projects that include at least 30 percent of the total units for Lower Income Households, at least 15 percent for Very Low Income Households, or at least 30 percent for persons and families of moderate income in a common interest development.
2. The additional incentive(s) or concession(s) provided to the developer meeting the criteria established in Section 2203.H.1 above may include any the following:
  - a. A reduction in site development standards or a modification of zoning code requirements which exceed minimum building standards approved by the State of California Building Standards Commission, as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code.
  - b. Approval of mixed use zoning in conjunction with the housing development if commercial, office, industrial, or other land uses will reduce the cost of the housing development; and if the commercial, office, industrial, or other land uses are compatible with the housing development and the existing or planned development in the area where the housing development will be located.
  - c. Other regulatory incentives or concessions which result in identifiable, financially sufficient, and actual cost reductions approved by the County following written request by the applicant.
3. This subdivision does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land or the waiver of fees or dedication requirements. All incentives are to be negotiated between the developer and the County. The Board may substitute another incentive for the one requested if the Board finds that the requested incentive is infeasible or undesirable.
4. Additional incentives or concessions shall not be granted if the County makes a written finding, based upon substantial evidence, of any of the following:
  - a. The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).



- b. The concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and Moderate-Income Households.
- c. The concession or incentive would be contrary to state or federal law.

I. **Waiver or Modification of Development Standards:** The County shall waive or modify zoning and development standards that would otherwise physically inhibit the use of the density bonus on a specific site, if the following findings are made:

- 1. The waiver or modification is necessary to make the proposed development economically feasible, as defined in Section 2206.C below.
- 2. The waiver or modification does not cause a specific adverse impact as defined above in Section 2203.H.4.b, including by filing to satisfy minimum building standards approved by the State Building Standards Commission, as provided in Health and Safety Code Section 18901, et seq.

A proposal for the waiver or reduction of development standards pursuant to this Subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is otherwise entitled pursuant to Section 2203.H, above.

J. **Density Bonus for Condominium Conversions:**

- 1. In accordance with Section 65915.5 of the Government Code, when an applicant proposing to convert apartments to a condominium project agrees to provide 33 percent of the total units in the proposed condominium project for persons and families of low and moderate income (as defined in Section 50093 of the Health and Safety Code), or 15 percent of the total units for Lower Income Households (as defined in Section 50079.5 of the Health and Safety Code), then the County shall grant a density bonus.
- 2. For purposes of this Section, "density bonus" means an increase of 25 percent over the number of apartments to be provided within the existing structure or structures proposed for conversion.
- 3. An applicant may submit a preliminary proposal for a condominium conversion under the provisions of Section 2203.J.1 above.
- 4. Notwithstanding Section 2202 above, the County may deny the condominium conversion under the provisions of Section 2203.D above.
- 5. An applicant shall be ineligible for a density bonus under the provisions of this Section if the apartments proposed for conversion were previously granted a density bonus under the provisions of Section 65915 of the Government Code.
- 6. Nothing in this Section shall be construed to require the County to approve a proposal to convert apartments to condominiums.

K. **Calculating Affordable and Density Bonus Units:**

- 1. All density bonus calculations resulting in fractions of a unit shall be rounded up to the next whole number.
- 2. For the purposes of calculating the amount of bonus for which an applicant is entitled pursuant to Section 2203.C above, the applicant shall elect whether the bonus shall be awarded on the basis of Section 2203.B, Paragraphs 1, 2, 3, or 4.
- 3. In calculating the number of affordable units required to be constructed in order to qualify for a density bonus under





Section 2203.C.2 above, the number of density bonus units shall not be included in the original calculation.

4. In calculating the number of affordable units required to be constructed in order to qualify for a density bonus under Section 2203.C.1 above, the density bonus units shall not be included in the calculation..

**Sec. 2204. Continued Availability and Affordability Provisions:** The units that qualified the housing development for a density bonus and other incentives and concessions shall continue to be available as affordable units in compliance with the following requirements, as required by Government Code Section 65915(c).

A. Where there is a direct financial contribution to a housing development pursuant to Section 65915 through participation in cost of infrastructure, write-down of land costs, or subsidizing the cost of construction, the County shall assure continued availability for low- and moderate-income units for 30 years. When appropriate, the agreement provided for in Section 65915 shall specify the mechanisms and procedures necessary to carry out this Section.

B. **Term of Affordability.** If a density bonus and one or more additional incentives are granted, then affordability of the approved units shall be as described in this section.

**C. Low-, and Very Low-income Rental Units.**

1. The continued affordability of all low- and very low-income qualifying units shall be maintained for 55 years, or longer, beginning when the units are first available for occupancy.
2. Maximum “affordable rent” for rental housing development as established in Health and Safety Code Section 50053 shall not exceed:
  - a. For Very Low-Income Households, rents shall not exceed 30 percent of 50 percent of the area median income, adjusted for household size. If the units are rented to Section 8 certificate holders, then the maximum rents for those units shall be as determined by the Kings County Housing Authority.
  - b. For Lower Income Households rents shall not exceed 30 percent of 60 percent of the area median income, adjusted for household size.
  - c. For Senior Citizen housing units seeking to qualify for a bonus pursuant to Government Code section 65915, subdivisions (f)(1) or (f)(2), any services, such as meals or individual medical care, offered above those normally provided for independent living units, shall be optional, and shall not be included in calculating maximum rents.
  - d. Total move-in costs for affordable units shall be limited to the last month's rent plus a cleaning deposit not to exceed one month's rent.

**D. Ownership Housing Units.**

1. The total mortgage payments for those units in a home ownership housing development designated for Very Low Income Households or low income households shall not exceed the criteria specified for maximum rents in Section 2204.C.2. Total mortgage payments include principal, interest, taxes, insurance, assessment district fees, utility allowance, maintenance costs, and homeowner association fees, if applicable.
2. The total down payment, excluding closing costs, for the affordable units shall not exceed 10 percent of the purchase price.
3. .An applicant shall agree to, and the County shall ensure that, the initial occupant of all for-sale units that qualified the applicant for the award of the density bonus are persons and families of Very Low, Low, or Moderate Income, as required, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The County shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:



- a. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. The County shall recapture any initial subsidy and its proportionate share of appreciation, which amount shall be used within five years for any of the purposes described in of Section 33334.2, subdivision (e) of the Health and Safety Code that promote home ownership.
- b. The County's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.
- c. The County's proportionate share of appreciation shall be equal to the ratio of the County's initial subsidy to the fair market value of the home at the time of initial sale.

**Sec. 2205. Development Standards for Residential Zoning Districts with Density Bonuses:**

- A. The table below shows the lot and density standards for housing projects when a density bonus is granted unless the following standards are more restrictive to the developer than the standards described in Government Code section 65915, subdivision (d) and (e), in which case the latter standards shall apply.

Table 22-5 DEVELOPMENT STANDARDS FOR RESIDENTIAL ZONING DISTRICTS WITH DENSITY BONUSES										
Use Classifications	RR	R-1-20	R-1-12	R-1-8	R-1-6	R-1-3*	RM-3	RM-2	RM-1.5	Additional Regulations
<b>Lot and Density Standards</b>	<i>*Kettleman City Only</i> All Standards Shown are Minimum Standards Unless Otherwise Stated									
Site frontage, interior lot with Density Bonus	-	50	50	50	50	-	-	-	-	
Site width interior lot with Density Bonus	-	80	65	65	50	-	50	50	50	
Site width corner lot with Density Bonus	-	90	75	60	55	-	55	55	55	
Site Depth Interior lot with Density Bonus	-	90	90	85	80	-	80	80	80	
Site Depth corner lot with Density Bonus	-	90	85	80	80	-	80	80	80	
Front yard setback with Density Bonus	-	20	20	20	20	-	15	15	15	

- B. Parking standards described in this Development Code shall apply to developments subject to a density bonus agreement unless those standards are more restrictive to the developer than the standards described in Government Code section 65915, subdivision (p), in which case the latter standards shall apply.

**Sec. 2206. Application Process and Procedures:**

- A. Preliminary Proposal: A developer may submit a preliminary proposal for a density bonus prior to a formal application. The Community Development Agency shall respond to the developer's preliminary proposal in writing, and provide the County's standard form of agreement approved by the County Counsel. The developer requesting a density bonus shall then submit a conformable density bonus agreement in a form approved by the County Counsel to the Community Development Agency for approval and execution by the Board.



- B. **Economic Feasibility:** Any developer requesting an additional incentive, or a waiver or modification of zoning and development standards, shall be required to show that the additional incentive is necessary to make the project economically feasible. The developer shall submit supporting financial documents with the application. The documents shall be evaluated by the Community Development Agency Director for proof of economic necessity.
- C. **Findings for approval:** In addition to the findings required for the approval of a Tentative Map, Final Map, or use permit, the approval of a density bonus and other incentives and concessions shall require that the review authority first make all of the following additional findings:
  - 1. The residential development will be consistent with the General Plan, except as provided by this Article for density bonuses, and other incentives and concessions;
  - 2. The approved number of dwellings can be accommodated by existing and planned infrastructure capacities;
  - 3. Adequate evidence exists to indicate that the project will provide affordable housing in a manner consistent with the purpose and intent of this Article; and
  - 4. There are sufficient provisions to guarantee that the units will remain affordable for the required time period.

**Sec. 2207. Density Bonus Agreements:**

- A. Any developer requesting a density bonus shall submit a density bonus agreement in a form approved by the County Counsel. The density bonus agreement shall be approved by resolution of the County Board of Supervisors, and shall run with the land. It shall include, but not be limited to, the following provisions, where applicable:
  - 1. The number of requested housing units above the amount allowed by the existing zoning, and the additional incentives requested.
  - 2. The number of affordable units by number of bedrooms and income group to be provided in the project.
  - 3. The term of affordability for affordable units, as defined in Section 2204 above.
  - 4. The standards for maximum qualifying incomes for affordable units.
  - 5. The standards for maximum rents or sales prices for affordable units.
  - 6. The process to be used to certify tenant/homeowner incomes.
  - 7. The arrangements with the Kings County Housing Authority for monitoring of the affordable Rental Housing Units.
  - 8. How vacancies will be marketed and filled.
  - 9. Restrictions and enforcement mechanisms binding on property upon sale or transfer.
  - 10. Penalties and enforcement mechanisms in event of failure to maintain affordability provisions.
  - 11. Any other provisions deemed necessary by the County of Kings.
- B. **Phasing:** If a project is to be phased, the Density Bonus Agreement shall stipulate that the density bonus qualifier units shall be phased in the same proportion as the non-density bonus qualifier units, or phased in another sequence acceptable to the County.



C. Execution of Agreement.

1. Following Board approval of the agreement, and execution of the agreement by all parties, the County shall record the completed agreement on the parcels designated for the construction of designated dwelling units, at the County Recorder's Office.
2. The approval and recordation shall take place at the same time as the Final Map or, where a map is not being processed, before issuance of Building Permits for the designated dwelling units.
3. The agreement shall be binding on all future owners, developers, and/or successors-in-interest.

**Sec. 2208. Reasonable Accommodations:**

- A. Purpose: The purpose of this Section is to provide a procedure for individuals with disabilities to request reasonable accommodation in seeking equal access to housing under the federal Fair Housing Act and the California Fair Employment and Housing Act (hereafter "Acts") in the application of zoning laws and other land use regulations, policies, and procedures.
- B. Applicability: A request for reasonable accommodation may be made by any person with a disability or their representative, when the application of a requirement of this zoning code or other County requirement, policy, or practice acts as a barrier to fair housing opportunities.
1. For the purposes of this chapter, a "person with a disability" is any person who has a physical, developmental, 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 chapter is intended to apply to those persons who are defined as disabled under the Acts.
  2. 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.
  3. A reasonable accommodation is granted only to the household that needs the accommodation and does not apply to successors in interest to the site.
  4. A reasonable accommodation may be granted in compliance with this Chapter without the need for the approval of a variance.
- C. Procedure:
1. A request for reasonable accommodation shall be submitted in the form of a letter to the Zoning Administrator, and shall contain the following information:
    - a. The applicant's name, address, and telephone number;
    - b. Address of the property for which the request is being made;
    - c. The current use of the property;
    - d. The basis for the claim that the individual is considered disabled under the Acts, including verification of such claim;
    - e. The Development Code Section from which reasonable accommodation is being requested;
    - f. Why the reasonable accommodation is necessary to make the specific property accessible to the individual.



2. If the project for which the request for reasonable accommodation is being made requires a zoning permit, then the applicant shall file the necessary application letter information required by subsection (a) of this Section for concurrent review with the application for the zoning permit.
  3. If no discretionary approval is sought other than the request for reasonable accommodation, a request for reasonable accommodation shall be reviewed by the Zoning Administrator. The Zoning Administrator shall make a written determination within 90 days of the application letter being deemed complete and either grant, grant with modifications, or deny a request for reasonable accommodation.
  4. A request for reasonable accommodation submitted for concurrent review with a discretionary land use application shall be reviewed by the Planning Commission. The written determination to either grant, grant with modifications, or deny a request for reasonable accommodation shall be made by the Planning Commission in compliance with the applicable review procedure for the discretionary review. Planning Commission staff will work with the applicant to take feasible steps to protect the applicant's medical privacy in oral and written reports given to the Planning Commission.
- D. Approval Findings: The written decision to grant or grant with modifications the reasonable accommodation will be consistent with the Acts and require that all of the following findings be made:
1. The subject housing identified in the request will be used by a person with a disability under the Acts;
  2. The request for reasonable accommodation is necessary to make specific housing available to a person with a disability under the Acts;
  3. The requested reasonable accommodation would not impose an undue financial, administrative or enforcement burden on the County;
  4. The requested reasonable accommodation would not require a fundamental alteration in the nature of a County program or law, including but not limited to land use and zoning;
  5. The requested reasonable accommodation would not result in potential unreasonable negative impact on surrounding uses;
  6. There are not any other reasonable accommodations that may provide an equivalent level of benefit.
- E. Conditions of approval: In granting a request for reasonable accommodation, the Zoning Administrator, or the Planning Commission as the case might be, may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings. The conditions shall also state whether the accommodation granted shall be removed in the event that the person for whom the accommodation was requested no longer resides on the site.
- F. Appeals: Any person dissatisfied with any action of the Director, or the Planning Commission, pertaining to this Chapter may appeal to the Planning Commission, or Board of Supervisors, within 30 days following written notice of the Zoning Administrator's or Planning Commission's decision being sent to the applicant.



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