

Reasonable Accommodation



BACKGROUND

The federal Fair Housing Amendments Act ([FHAA](#)) and California Fair Employment and Housing Act ([FEHA](#)) were passed (in part) to ensure that all people have equal access to housing, and recognize that individuals with disabilities may need extra tools to achieve equal access.

As such, the law requires that jurisdictions provide individuals with disabilities, or developers of housing for people with disabilities, reasonable flexibility, and accommodation in the application of land use, zoning and building regulations, practices, and procedures. To that end, local jurisdictions must develop a process to allow for deviations in development standards to achieve such reasonable accommodation.

This info-bulletin helps clarify what qualifies as a reasonable accommodation and outlines the process for requesting such accommodations.

DEFINITIONS

Since established rules, policies, practices, and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities the same as others will sometimes deny persons with disabilities an equal opportunity to enjoy a dwelling.

Reasonable exceptions to established rules are therefore needed to eliminate barriers that prevent persons with disabilities from fully participating in housing opportunities. In applying equal access laws, certain terminology is used, as reflected below.

Individual with a Disability

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. This definition applies to those persons who are defined as disabled under the fair housing laws.

Reasonable Accommodation

A change, exception, or adjustment to an established rule, policy, or practice that may be necessary for a person with disabilities to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces, or to fulfill their housing program obligations.

Requests for reasonable accommodations are typically made to the city as part of the permitting process for new construction, and is the focus of this info-bulletin.

Reasonable Modification

A structural change made to existing premises, occupied or to be occupied by a person with a disability, to afford such person full enjoyment of the premises. Reasonable modifications can include structural changes to existing interiors and exteriors of dwellings and to common and public use areas.

Requests for reasonable modifications are made to the property owner or housing/complex manager. The city does not review or approve such requests.

General Examples

A requested accommodation may be necessary when there is an identifiable relationship, or nexus, between the requested accommodation and the individual's disability. General examples of reasonable accommodation are provided below:

- Assigning an accessible parking space for a person with a mobility impairment.

- Permitting an applicant to submit a housing application via a different means.
- Allowing a wheelchair access ramp to encroach into a required setback.



APPLICATION & REVIEW PROCESS

The following sections describe the submittal and review process for requesting a reasonable accommodation. For detailed requirements, refer to the Reasonable Accommodation section of the Carlsbad Municipal Code ([§21.87](#)).

Application Form

To simplify submittal requirements for customers, and streamline application review by city staff, the department established a process and criteria for considering applications for a reasonable accommodation.

The city will aid individuals who need assistance in preparing and/or filing the application form.

- Requests must be submitted on an application form ([Form P-29](#)) provided by the Planning Division.
- Clearly describe the requested reasonable accommodation and explain how application of the existing zoning, land use or building code provision, regulation, policy, or practice would preclude the equal opportunity to use and enjoy a residence.
- Include completed plans, materials and other items required in the application form. Failure to include all requested items may delay processing of the application.
- There is no filing fee for a reasonable accommodation or modification application.

Disability Documentation

If the disability and/or the disability-related need for the requested accommodation or modification is not known or obvious, please include information that will help the city evaluate the disability and/or disability-related need for the accommodation or modification.

This information may be from the requesting individual, medical professional, a non-medical service agency, or a reliable third party who is able to know about the individual's disability. In most cases, an individual's medical records or detailed information about the nature of a person's disability is not necessary for this inquiry.

If you find that the disability is obvious, readily apparent, or otherwise known to the city, and if the need for the requested accommodation is also readily apparent or known, then you may request that the documentation be waived. Refer to the section "Options for Service" in this information-bulletin for the appropriate department contact for more information on such requests.

Any information identified by an applicant as confidential shall be retained by the city in a manner that respects the privacy rights of the applicant and shall not be made available to the public.

Application & Document Review

Once accepted for processing, applications are typically reviewed within 10 business days from the date of submittal. When reviewing the application, the city must make the following findings to approve the request.

- The housing, which is the subject of the requested reasonable accommodation, will be occupied by an individual with a disability protected under fair housing laws.
- The request is necessary to make housing available to an individual with a disability protected under the fair housing laws.
- The request would not impose an undue financial or administrative burden on the city.
- The request would not require a fundamental alteration in the nature of the city's land use regulations and policies. Fundamental alteration means a substantial change in the primary purpose or benefit of an activity, or a substantial impairment of necessary or practical components required to achieve a program or activity's primary purpose or benefit.

Application Decision

When the reasonable accommodation is approved or denied by the city planner, the decision may be appealed to the Planning Commission. The appeal must be submitted on an application form ([Form P-27](#)) prepared by the Planning Division, along with payment of the required appeal fee, within ten calendar days from the date of the city planner decision. Refer to the city's [fee schedule](#) for required appeal fees.

The Planning Commission's decision may also be appealed to the City Council. The appeal must be submitted on an application form ([Form P-27](#)) prepared by the Planning Division, along with payment of the required appeal fee, within ten calendar days from the date of the city planner decision. Refer to the city's [fee schedule](#) for required appeal fees.

Grounds for Denial

The city may deny a request for a reasonable accommodation under the following conditions:

- The request was not made by or on behalf of a person with a disability or if there is no disability-related need for the accommodation.
- The request would impose an undue financial and administrative burden on the city or housing provider.
- The request would fundamentally alter the nature of the city or housing provider's housing program.

The determination of undue financial and administrative burden is made on a case-by-case basis involving various factors. If an undue burden or fundamental alteration exists, the city or housing provider is still required to provide any other reasonable accommodation up to the point that would not result in an undue financial and administrative burden on the housing provider and/or constitute a fundamental alteration of the program.

When a city denies a requested accommodation, the city will discuss with the requester whether there is an alternative accommodation that would effectively address the requester's disability-related needs without a fundamental alteration to the provider's operations and without imposing an undue financial and administrative burden.

As part of this interactive process, the city recognizes that the individual requesting the accommodation is

most familiar with his or her disability and is in the best position to determine what type of aid or service will be effective to meet a disability-related need. These discussions often result in an effective accommodation for the requester that does not pose an undue financial and administrative burden for the provider.



OPTIONS FOR SERVICES

To schedule an appointment or to learn more about this process, please contact the Planning Division at 442-339-2600 or via email at Planning@carlsbadca.gov.

To learn more about reasonable accommodations or modifications, please consult the US Department of Housing & Urban Development website ([HUD](#)).