

ORDINANCE NO. _____

**ORDINANCE ADDING CHAPTER 17.73 TO THE BAKERSFIELD
MUNICIPAL CODE TO PROVIDE A PROCEDURE FOR
REASONABLE ACCOMMODATION IN THE CITY'S LAND USE AND
ZONING REGULATIONS PURSUANT TO STATE OF CALIFORNIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
GUIDELINES AND REQUIREMENTS AND FAIR HOUSING LAWS.**

BE IT ORDAINED by the Council of the City of Bakersfield as follows:

SECTION 1.

Chapter 17.73 of the Bakersfield Municipal Code is hereby added to read as follows:

Chapter 17.73
REASONABLE ACCOMMODATION

17.73.010 Purpose.

A. The purpose of this Chapter 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.

17.73.020 Applicability.

A. 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 City requirement, policy, or practice acts as a barrier to fair housing opportunities. For the purposes of this chapter, a "person with a disability" is any person who has a physical 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.

B. 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.

C. A reasonable accommodation is granted only to the household that needs the accommodation and does not apply to successors in interest to the site.

D. A reasonable accommodation may be granted in compliance with this Chapter without the need for the approval of a variance.

17.73.030 Procedures.

A. A request for reasonable accommodation shall be submitted on an application form provided by the Development Services Department or in the form of a letter to the Development Services Director, and shall contain the following information:

1. The applicant's name, address, and telephone number;
2. Address of the property for which the request is being made;
3. The current use of the property;
4. The basis for the claim that the individual is considered disabled under the Acts, including verification of such claim;
5. The zoning code provision, regulation, or policy from which reasonable accommodation is being requested; and
6. Why the reasonable accommodation is necessary to make the specific property accessible to the individual.

B. If the project for which the request for reasonable accommodation is being made requires some other discretionary approval (including use permit, design review, etc.), then the applicant shall file the information required by subsection A of this section for concurrent review with the application for discretionary approval.

C. A request for reasonable accommodation shall be reviewed by the Development Services Director. If no approval is sought other than the request for reasonable accommodation, the Director shall make a written determination within 45 days of the application being deemed complete and either grant, grant with modifications, or deny a request for reasonable accommodation.

D. A request for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be reviewed by the Planning Commission. The written determination on whether to grant or deny the request for reasonable accommodation shall be made by the Planning Commission in compliance with the applicable review procedure for the discretionary review.

17.73.040 Approval Findings.

A. The written decision to grant or deny a request for reasonable accommodation will be consistent with the Acts and shall be based on consideration of the following factors:

1. Whether the housing in the request will be used by a person with a disability under the Acts;
2. Whether the request for reasonable accommodation is necessary to make specific housing available to a person with a disability under the Acts;
3. Whether the requested reasonable accommodation would impose an undue financial, administrative or enforcement burden on the City;
4. Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a City program or law, including but not limited to land use and zoning;
5. Potential impact on surrounding uses;
6. Physical attributes of the property and structures; and
7. Other reasonable accommodations that may provide an equivalent level of benefit.

17.73.050 Conditions of Approval

A. In granting a request for reasonable accommodation, the Development Services Director or his/her designee, 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.

17.73.060 Appeals.

A. Any person dissatisfied with any action of the Development Services Director pertaining to this Chapter may appeal to the Planning Commission within 10 days after written notice of the Director's decision is sent to the applicant by filing a written notice of appeal with the City Clerk and shall specify the reasons for the appeal and the grounds asserted for relief.

B. Any person dissatisfied with any action of the Planning Commission pertaining to this Chapter may appeal to the City Council within 10 days after the rendition of the decision of the Planning Commission by filing a written notice of appeal with the City Clerk and shall specify the reasons for the appeal and the grounds asserted for relief. If any request for a reasonable accommodation is disapproved by the Planning Commission and no appeal is filed, such action by the Planning Commission shall be final and conclusive.

C. The City Council shall, by resolution, adopt and from time to time amend a fee for the filing of appeals. Such fee shall be for the sole purpose of defraying costs incurred for the administration of appeals. The fee for an appeal shall be paid at the time of and with the filing of an appeal. No appeal shall be deemed valid unless the prescribed fee has been paid.

D. If an appeal is not filed within the time or in the manner prescribed in this section, the right to review of the action against which the appeal is made shall be deemed to have been waived.

E. After filing an appeal, the City Council shall conduct a public hearing for the purpose of determining whether the appeal of the decision of the Planning Commission should be granted or denied. Written notice of the time, date and place of hearing shall be given to the appellant, and to any other persons who have filed a written request for notice. Such notices shall be mailed to the appellant and to any other persons who have filed a written request for notice at least ten days prior to the hearing. Any hearing may be continued from time to time. A decision of the City Council shall be final and conclusive.

SECTION 2.

This Ordinance shall be posted in accordance with the provisions of the Bakersfield Municipal Code and shall become effective thirty (30) days from and after the date of its passage.

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I HEREBY CERTIFY that the foregoing Ordinance was passed and adopted by the Council of the City of Bakersfield at a regular meeting thereof held on _____ by the following vote:

AYES:	COUNCILMEMBER:	ARIAS, GONZALES, WEIR, SMITH, FREEMAN, GRAY, PARLIER
NOES:	COUNCILMEMBER:	_____
ABSTAIN:	COUNCILMEMBER:	_____
ABSENT:	COUNCILMEMBER:	_____

JULIE DRIMAKIS, CMC
CITY CLERK and Ex Officio Clerk of the
Council of the City of Bakersfield

APPROVED:

By: _____
KAREN GOH
Mayor

APPROVED AS TO FORM:

VIRGINIA GENNARO
City Attorney

By: _____
JOSHUA H. RUDNICK
Deputy City Attorney