



# MARIPOSA COUNTY

Planning · 209-966-5151



## **RESOLUTION - ACTION REQUESTED 2016-318**

MEETING: June 21, 2016

TO: The Board of Supervisors

FROM: Sarah Williams, Planning Director

RE: Resolution of Intention-Reasonable Accommodation

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### **RECOMMENDATION AND JUSTIFICATION:**

Adopt a Resolution of Intention Initiating an Ordinance to Amend Title 17 by Adding a Reasonable Accommodation Chapter, Chapter 17.146 regarding reasonable accommodation in the County's application of zoning regulations and land use policies.

This action will authorize the Planning Department to process an ordinance amendment project to comply fully with the intent and purpose of the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts). Planning will prepare a staff report and environmental review determination, and schedule and notice public hearings at the Planning Commission and Board of Supervisors.

The amendment will provide individuals with disabilities as defined under the Acts reasonable accommodation in its application of General Plan policies and zoning regulations to ensure equal access to housing and to facilitate the development of housing for individuals with disabilities pursuant to state and federal law.

### **BACKGROUND AND HISTORY OF BOARD ACTIONS:**

Mariposa County is in the process of updating its Housing Element (the 2014-2019 HE) which requires review and approval by the California Housing and Community Development Department (HCD). HCD will not approve the 2014-2019 HE unless a reasonable accommodation ordinance is adopted or included as a program in the update.

Adoption of a reasonable accommodation ordinance is a program in the current Housing Element (the 2009-2014 Housing Element).

### **ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

If a reasonable accommodation ordinance is not adopted, Mariposa County will be unable to update the Housing Element as required by law or will be required to amend the draft Housing Element Update text.

### **FINANCIAL IMPACT:**

**None**

**ATTACHMENTS:**

**BOS Resolution Initiating Reasonable Accommodation Ordinance (DOC)**

**CAO RECOMMENDATION**

Requested Action Recommended

  
Mary Hodson, CAO 6/15/2016

**RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]**

**MOVER:** Rosemarie Smallcombe, District I Supervisor

**SECONDER:** Marshall Long, District III Supervisor

**AYES:** Smallcombe, Jones, Long, Cann, Carrier

STATE OF CALIFORNIA  
COUNTY OF MARIPOSA  
BOARD OF SUPERVISORS

Resolution  
No 2016-318

**A Resolution of Intention Initiating an Ordinance to Amend  
Title 17 by Adding a Reasonable Accommodation Chapter,  
Chapter 17.146**

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**WHEREAS**, the Fair Housing Amendments Act prohibits local governments from making housing opportunities unavailable to people with disabilities through discriminatory land use and zoning decisions and creates an affirmative duty to “make reasonable accommodations in rules, policies, practices, and services when accommodation may be necessary to afford such person(s) equal opportunity to use and enjoy a dwelling”; and

**WHEREAS**, the California Fair Employment and Housing Act prohibits discriminatory public or private land use practices, decisions and authorizations including, but not limited to, zoning laws, denials of use permits, and other land use actions that make housing opportunities unavailable; and

**WHEREAS**, the Fair Housing Amendments Act and the California Fair Employment and Housing Act are hereafter referred to as “the Acts”; and

**WHEREAS**, it is the policy of Mariposa County to comply fully with the intent and purpose of fair housing laws and to provide individuals with disabilities as defined under the Acts reasonable accommodation in its application of General Plan and zoning standards to ensure equal access to housing and facilitate the development of housing for individuals with disabilities pursuant to state and federal law; and

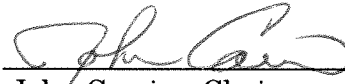
**WHEREAS**, Mariposa County is in the process of updating its Housing Element, the 2014-2019 Housing Element, which requires review and approval (certification) by the California Housing and Community Development Department (HCD). HCD will not approve the Housing Element prior to implementation of a reasonable accommodation ordinance (unless the update includes a program to complete the ordinance process).

**NOW BE IT THEREFORE RESOLVED THAT**, the Board of Supervisors does hereby adopt this resolution to initiate an amendment to Title 17, the Mariposa County Zoning Ordinance, by adding a new chapter to the Title to establish a process for requests for reasonable accommodation, as shown in Attachment A.

**NOW BE IT THEREFORE FURTHER RESOLVED THAT**, this action authorizes Planning staff to complete the processing of this amendment.

**ON MOTION BY** Supervisor Smallcombe, seconded by Supervisor Long, this resolution duly passed and adopted this 21<sup>st</sup> day of June, 2016 by the following vote:

AYES: SMALLCOMBE, JONES, LONG, CANN, CARRIER  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE



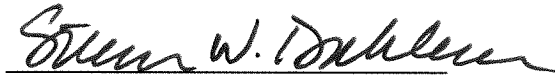
\_\_\_\_\_  
John Carrier, Chair  
Mariposa County Board of Supervisors

Attest:



\_\_\_\_\_  
René LaRoche  
Clerk of the Board of Supervisors

Approved as to Form:



\_\_\_\_\_  
Steven W. Dahlem  
County Counsel

# ATTACHMENT A – Proposed New Chapter 17.146

## Chapter 17.146

### REASONABLE ACCOMMODATION

#### Sections:

- 17.146.010 Purpose and intent.
- 17.146.020 Applicability.
- 17.146.030 Application requirements.
- 17.146.040 Review authority.
- 17.146.050 Review procedures.
- 17.146.060 Required findings and decision.
- 17.146.070 Appeal of determination.
- 17.146.080 General provisions

#### 17.146.010 Purpose and intent.

It is the policy of the County of Mariposa to provide individuals with disabilities reasonable accommodation in its application of zoning standards and other land use regulations, policies and procedures to ensure equal access to housing and facilitate the development of housing for individuals with disabilities pursuant to the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts). This chapter provides a procedure for making requests for reasonable accommodations in zoning standards and other land use regulations, policies and procedures to comply fully with the intent and purpose of fair housing laws.

#### 17.146.020 Applicability.

Persons defined as disabled under the Acts may request reasonable accommodations when the strict application of the provisions within the County's General Plan or this Title act as a barrier to fair housing opportunities. A person with a disability is a 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. A request for reasonable accommodation may be made by any person with a disability, his or her representative (e.g. family member, care provider, etc.), or a provider of housing for persons with disabilities.

A request for reasonable accommodation may include a minor modification or exception to the standards contained in the County's General Plan and zoning ordinance relating to 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.

#### 17.146.030 Application Requirements.

A request for reasonable accommodation must be filed on an application form provided by the Planning Department, shall be signed by the applicant and shall include the following information:

- A. The applicant's name, address and phone number;
- B. The name and address of the property owner if different from the applicant;
  - 1. The property owner, if different than the applicant, shall be required to sign an affidavit stating they do not object to the application for reasonable accommodation.
- C. Verification that the property is the primary residence of the person(s) for whom the reasonable accommodation is requested.
- D. The address for the property for which the reasonable accommodation request is being made;
- E. Current use of the property;
- F. A description of how the property will be used by the person(s) requesting reasonable accommodation;
- G. The specific reason the requested accommodation is necessary to make a particular dwelling available to the disabled person(s) with a citation of the specific provision within the General Plan or this Title from which accommodation relief is being sought;
- H. The basis for the claim that the Acts apply to the person(s) requesting the reasonable accommodation and evidence supporting the claim, which may include a letter from a medical doctor or other licensed health care professional, a disabled person license or other appropriate evidence which establishes that the person(s) needing the reasonable accommodation is disabled pursuant to the Acts;
- I. The Planning Department shall assist the applicant in completing the form, as necessary, or, shall elicit oral information from the applicant necessary for the Department to complete the form itself. In the event the Department completes the form by eliciting oral information from the applicant, the Department shall read the completed form to the applicant to ensure its accuracy and shall provide a copy of the completed form to the applicant.

**17.146.040 Review authority.**

The Planning Director shall review and make a written determination regarding a request for a reasonable accommodation.

**17.146.050 Review Procedures.**

- A. Planning Director review. The Director shall make a written determination within thirty (30) calendar days following the submittal of a complete application and either approve, approve with modifications, or disapprove a request for a reasonable accommodation in compliance with Section 17.146.060 below.
- 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 shown in Section 17.146.060 below.
- C. The Director may consult with other Mariposa County agencies if the reasonable accommodation request affects the jurisdiction or the review, permitting and/or enforcement processes of

those agencies. The Director may review General Plan and zoning standards when considering a request for reasonable accommodation, including, but not limited to, land use classification, zoning district, design, setback, and lot coverage standards.

D. Stays. If necessary to reach a determination on the request for reasonable determination, the Planning Director may request further information from the applicant consistent with the Acts, specifying in detail the information that is required. In the event a request for additional information is made, the thirty (30) calendar day period to issue a decision is stayed until the applicant responds to the request.

**17.146.060 Required findings and decision.**

The written decision to grant, grant with modifications, or deny a request for reasonable accommodation shall be consistent with the Acts and based on consideration of the following factors and any other relevant information upon which the decision is based as determined by the Director on a case-by-case basis:

A. Whether the housing, which is the subject of the request, will be used by an individual disabled under the Acts.

B. Whether the requested reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Acts.

C. Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the County.

D. Whether the requested reasonable accommodation would require a major or fundamental alteration in the County's General Plan land use policies and/or zoning ordinance standards.

E. The requested reasonable accommodation will not be injurious to property or improvements in the surrounding area and will not adversely affect the health and safety of persons residing or working in the vicinity, or be detrimental to the public health, safety and welfare.

**17.146.070 Appeal of determination.**

A. The written determination by the Planning Director to grant or deny a request for reasonable accommodation may be appealed in accordance with Chapter 17.136 of this Title.

B. All appeals shall be filed with the Mariposa County Planning Commission Secretary or the Clerk of the Mariposa County Board of Supervisors on a Notice of Appeal Form obtained at the planning department or on-line, and shall contain all required information including a statement of the grounds for the appeal. Any information identified by an appellant/applicant as confidential shall be retained in a manner so as to respect the privacy rights of the appellant/applicant and shall not be made available for public inspection.

C. An individual needing assistance in filing an appeal on an adverse decision shall be provided assistance by the Planning Department to ensure that the appeals process is accessible.

**17.146.080 General provisions.**

A. Rescission. A grant or grant with modifications made in compliance with this chapter may be conditioned to provide for its rescission or automatic expiration under appropriate circumstances (e.g., the individual defined as disabled under the Acts vacates the subject site, etc.).

B. Severability. The sections of this chapter are separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, or portion of these sections, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this chapter, or the validity of its application to other persons or circumstances.

C. Fees. An applicant for a request for reasonable accommodation shall not be assessed a fee to process the application.

D. Any information identified by the applicant as confidential that is submitted to the County as part of an application shall be retained by the County in a manner that respects the privacy rights of the applicant and shall not be made available for public inspection.