

LEGISLATIVE DIGEST

[Planning Code - Procedure for Requesting Modification of Code Requirements or Planning Department Practices and Procedures to Accommodate a Disability]

Ordinance amending the Planning Code to establish a process for making and acting upon requests for reasonable modification of a Planning Code requirement or a Department policy, practice, or procedure to accommodate a disability pursuant to federal and state fair housing laws; and affirming the Planning Department's California Environmental Quality Act determination and making findings of consistency with the City's General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

Under the federal Fair Housing Act (42 USC Sections 3601-3631) and other applicable federal and state fair housing laws ("Fair Housing Laws"), the City is required to make a reasonable modification of a rule, policy, practice, or service when a modification is necessary in order to afford a person with a disability an equal opportunity to use and enjoy a dwelling. A reasonable modification includes changing, waiving, or making an exception to zoning requirements unless doing so would impose an "undue financial or administrative burden" on the City or result in "a fundamental alteration" of a City program or policy, as those terms are defined in the Fair Housing Laws. Currently, requests by individuals requesting a reasonable modification of Planning Code requirements are addressed by the Zoning Administrator through the standard variance process set forth in Planning Code Section 305.

Amendments to Current Law

The proposed ordinance would add Section 305.1 to the Planning Code to provide an individual with a disability with a clear application process and two separate paths for obtaining a reasonable modification of Planning Code residential requirements under Fair Housing Laws depending on the type of modification requested. An administrative reasonable modification process, which does not require a public hearing, would apply when the request for modification involves: (1) parking where no physical structure is proposed, (2) an access ramp that is designed and constructed to meet the accessibility provisions of either the California Building Code or the California State Historical Building Code, or (3) additional habitable space that does not result in the addition of a new dwelling unit or require expansion of the permitted building envelope. All other requests for reasonable modification would follow the standard variance procedure set forth in Section 305, including the notice and public hearing requirements.

Background Information

The 2009 Housing Element of the San Francisco General Plan included implementation measure #39, which called for adoption of a local ordinance to enable an individual requesting a reasonable modification of Planning Code requirements under Fair Housing Laws to bypass the standard variance process. The proposed 2014 Housing Element includes a similar implementation measure. The proposed legislation provides a streamlined path for the most common types of modifications requested.

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