

CITY OF GILROY

COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

**GUIDELINES FOR REVIEW OF REQUESTS FOR REASONABLE
ACCOMMODATION FROM ZONING REGULATIONS**

It is the policy of the City of Gilroy to provide reasonable accommodation for persons with disabilities seeking fair access to housing in the application of its zoning laws, policies, and processes. A person with disabilities is someone who has a “physical or mental impairment which substantially limits one or more of such person’s major life activities.”

In making a determination as to whether a requested accommodation is reasonable it is necessary to consider whether the accommodation:

1. Would impose an undue financial or administrative burden on the City; or
2. Would require a fundamental alteration in the nature of a City Program.

The reasonable accommodation provisions of the Gilroy Zoning Code cite the following factors as part of the consideration:

- A. Special needs created by the disability;
- B. Potential benefit that can be accomplished by the requested modification;
- C. Potential impact on surrounding uses;
- D. Physical attributes of the property and structures;
- E. Alternative accommodations which may provide an equivalent level of benefit;
- F. In the case of a determination involving a single family dwelling, whether the household would be considered a single housekeeping unit if it were not using special services that are required because of the disabilities of the residents.

These factors are designed to obtain the factual information necessary to develop a balance between the City’s interest and the need for the housing. These considerations will vary depending on whether the request is being made in a Single Family, Multiple Family, or Commercial Zoning District, and they can only include the physical impacts of the proposed use, not on the type of residents.

The following policies have been identified as City Programs which should be considered with respect to requests for reasonable accommodation:

1. Health and Safety

The City of Gilroy is charged with ensuring the health and safety standards which are embodied in the following codes:

- Uniform Housing Code
- Uniform Fire Code
- Uniform Building Codes, including Plumbing, Mechanical and Electrical Codes;

(a) Occupancy Standards

The Uniform Housing Code (503.2, 1994 edition) prescribes the number of persons per sleeping area (excluding closets), as follows:

- Two (2) persons per 70 square feet of sleeping area
- Three (3) persons per 120 square feet of sleeping area
- Four (4) persons per 170 square feet of sleeping area
- An additional 50 square feet of sleeping area is required for each additional person.

(b) Exiting

The Uniform Housing Code requires exits, for safety reasons, in conformance with Chapter 10 (1003.1 and 1003.2.2.3.2) of the Uniform Building Code. The requirements mandate a minimum of two exits (e.g., stairwells) from any second floor area when more than nine (9) persons are sleeping on the grounds floor.

NOTE: The standards noted in items 1a. and 1b., above are the minimum health and safety standards which are not subject to variance.

**Request for Reasonable Accommodation
(pursuant to Zoning Code, Chapter 50.23)**

Under Section 50.23 of the Gilroy Zoning Code, the City of Gilroy seeks to provide reasonable accommodation for persons with disabilities seeking fair access to housing in the application of City zoning laws. The purpose of this application form is to commence the process for making a request for reasonable accommodation. There is NO FEE for this request.*

FILE NUMBER <i>(to be completed by staff)</i>	
NAME OF APPLICANT/Relationship to person(s) with disability (Please Print)	DAYTIME PHONE NUMBER ()
AFFILIATION OR ORGANIZATION:	FAX NUMBER ()
ADDRESS OF PROPERTY	ASSESSOR'S PARCEL NUMBER: (APN)
MAILING ADDRESS: <i>(if different from above)</i>	
PROPERTY OWNER: <i>(if different from above)</i>	PROPERTY OWNER'S MAILING ADDRESS:
CURRENT USE OF THE PROPERTY:	
<p>1. Request for Accommodation:</p> <p>(a) Specify any requested accommodations to a code, policy or practice of the City of Gilroy. Please cite the applicable code provisions and the accommodation requested from the provision.</p> <p>(b) What is the basis for the claim that the person or persons on behalf of which this application is being made is considered Disabled under the Fair Housing Act?</p> <p>(c) Why is the accommodation necessary to make specific housing available to those persons?</p>	

* Please feel free to answer questions on a separate page(s) and use additional pages as necessary.

REASONABLE ACCOMMODATION REQUEST

2. Other Information		<input type="checkbox"/> Yes	<input type="checkbox"/> No
(a)	Do you have a county, state or federal license or certification with respect to the use of property? If yes, attach a copy of applicable document(s).	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(b)	Are any alterations planned to the property? If yes, please describe	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(c)	Will the property be identified by a name or sign?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(d)	Will the property contain a staff office?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(e)	Does the property have on-site parking? If yes, how many spaces _____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(f)	Please describe all services to be offered on the premises:	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(g)	Do you provide services at the property to non-residents?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(h)	Proposed maximum number of residents on the property: Adults: _____ Children: _____ Typical length of stay for residents: _____		
(i)	Proposed number of staff members: Total Staff: _____ Resident: _____ Non-Resident: _____		
(j)	Have any neighbors been contacted regarding this proposal? If yes, describe how they were contacted.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(k)	If neighbors have immediate concerns regarding residents or the operation of the facility, who should they contact? Name: _____ Telephone Number: _____		
3. Please attach a list of the adjacent property owners. Adjacent is defined as sharing a property line or located directly			
Signature of Applicant		Date	

Reasonable Accommodation Request Process:

If no other land use permit is required, you may submit a request for reasonable accommodation directly to the Planning Division between the hours of 9:00 a.m. to 5:00 p.m., City Hall, 7351 Rosanna Street, Gilroy, CA 95020. Staff can FAX you a copy of the application by calling the Planning Division at 408-846-0440. If a land use permit is also required, then the request for Reasonable Accommodation should be submitted concurrently with the land use permit (e.g., Conditional Use Permit). When submitted concurrently, the procedure will be the same as for the land use permit and you should refer to the land use permit application for the appropriate procedures, including noticing and hearing. Typically, such permits require an appointment for submittal. *See flowchart of the Process.*

Procedure

1. The applicant submits a request for reasonable accommodation with two sets of envelopes addressed to the property owners/occupants of any Adjacent Properties. (Adjacent Properties are those properties which share property lines with the proposed location or are directly across the street from the property for which reasonable accommodation is being requested.) The applicant provides the stamped envelopes without a return address for use by the Planning Division for mailing of the required notices. It is very important for the applicant to obtain the assessor's parcel number (APN) of the proposed location for this purpose.
2. Within thirty (30) days of the application, a notice of decision will be issued by the Planning Division Manager (or his or her designee) and mailed to the applicant, adjacent property owners/occupants and any requesting party. During the thirty (30) day timeframe, additional information may be requested by staff and a site visit may be scheduled.
3. Within ten (10) days of the notice of decision being mailed, any person may make a request in writing for a Planning Division Manager's Hearing. If no request is received, then the decision of the Planning Division will be final.
4. If a hearing is requested, such hearing will take place within a reasonable time and subject to the Planning Division Manager's schedule. The Planning Division Manager shall issue a decision granting the request, including any reasonable conditions, or denying the request and include the Planning Division Manager's factual findings, conclusions and reasons for the decision. The decision will be mailed to the applicant and adjacent property owners and or occupants.
5. Within thirty (30) days of the notice of the Planning Division Manager's decision, any person may appeal in writing to the Planning Commission. Any such appeal should be mailed to the Planning Commission in care of the Planning Division. All appeals shall contain a statement on the grounds for appeal.
6. The Planning Commission shall hold a public hearing on the appeal. Planning Commission public hearings are held on the first Thursday of the month. The decision of the Planning Commission shall be final. Copies of the resolution of the Planning Commission decision will be sent to the applicant, the appealing party, and any Adjacent Property owners and occupants.

Grounds for Reasonable Accommodation:

In making a determination regarding the reasonableness of a requested accommodation, the following factors shall be considered:

- Special needs created by the disability.
- Potential benefit that can be accomplished by the requested modification.
- Potential impact on surrounding uses.
- Physical attributes of the property and structures.
- Alternative accommodations which may provide an equivalent level of benefit.
- In the case of a determination involving a single family dwelling, whether the household would be considered a single housekeeping unit if it were not using special services that are required because of the disabilities of the residents.
- Whether the requested accommodation would impose an undue financial or administrative burden on the City.
- Whether the requested accommodation would require a fundamental alteration in the nature of a program.

Definitions:

The following definitions (Chapter 50.23) may be helpful to review prior to applying for a Reasonable Accommodation Request:

Dwelling, one family or one-family dwelling is a detached building of permanent character placed in a permanent location which is designed or used for residential occupancy by one family. A single mobile home on a foundation system on a single lot is included within this definition.

Family is one or more persons occupying a premises and living as a Single Housekeeping Unit.

Residential Care Facility is a facility licensed by the State of California where care, services, or treatment is provided to persons living in a community residential setting.

Residential Service Facility is a residential facility, other than a Residential Care Facility or a Single Housekeeping Unit, where the operator receives compensation for the provision for personal services, in addition to housing, including but not limited to, protection, supervision, assistance, guidance, training, therapy or other non-medical care if provided to residents of the facility.

Single Housekeeping Unit is the functional equivalent of a traditional family; whose members are a non-transient interactive group of persons jointly occupying a single dwelling unit, including the joint use of common areas, and sharing household activities and responsibilities such as meals, chores, and expenses.

Zoning Districts:

A request for Reasonable Accommodation may be submitted on behalf of any disabled person(s) from any City of Gilroy Zoning Code provision or policies. The attached table, entitled “Table-A”, provides a general guide to uses and the appropriate zoning districts.

Any questions regarding the Reasonable Accommodation procedure should be addressed to the City of Gilroy, Planning Division, at (408) 846-0440.

To arrange an accommodation under the Americans With Disabilities Act to participate in any public meeting, please call (408) 846-0440 at least 48 hours before the meeting.

**REASONABLE ACCOMMODATION PROCESS
FLOWCHART**

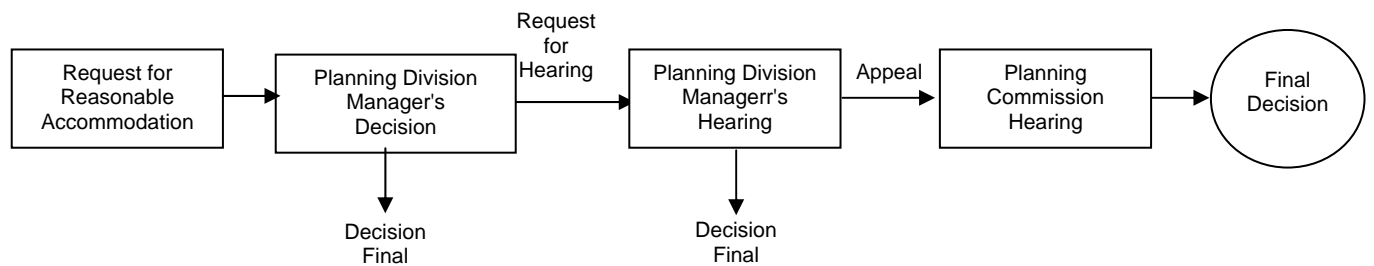


TABLE A

USE/ZONING DISTRICT	A-1	R1	R2	R3	R4	RH	COMMERCIAL
Single Family Dwelling (Single Housekeeping Unit)	P	P	P	P	P	P	No
Residential Care Facility ≤6 (State License)	P	P	P	P	P	P	No
Residential Service Facility ≤6 (No State License)	P	P	P	P	P	P	No
Residential Care Facility >6 (State License)	CUP	CUP	CUP	CUP	CUP	CUP	NO
Residential Service Facility >6 (No State License)	CUP	CUP	CUP	CUP	CUP	CUP	NO

P -Permitted
 No -Not Permitted
 CUP -Conditional Use Permit

Note: Zoning Ordinance provisions are subject to requests for Reasonable Accommodation.