

ORDINANCE NO. 1840

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA, ADDING CHAPTER 18.74 TO TITLE 18, ZONING, OF THE GARDENA MUNICIPAL CODE RELATING TO REASONABLE ACCOMMODATIONS POLICY AND PROCEDURES

WHEREAS, the federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act impose an affirmative duty on local governments to make reasonable accommodation in their land use and zoning regulations and practices when necessary; and

WHEREAS, Fair Housing Laws include "Fair Housing Amendments Act of 1988" (42 U.S.C. § 3601 et seq.), including reasonable accommodation required by 42 U.S.C. § 3604(f)(3)(B), and the "California Fair Employment and Housing Act" (California Government Code Section 12900 et seq.), including reasonable accommodation required specifically by California Government Code Sections 12927(c)(1) and 12955(l), as any of these statutory provisions now exist or may be amended from time to time; and

WHEREAS, the State Housing and Community Development Department (HCD) encourages cities to adopt written procedures for reasonable accommodation requests with respect to zoning regulations, permit processing, and building codes in light of the aforementioned laws and a city's affirmative duty to comply with fair housing laws; and

WHEREAS, one of HCD's comments on the City's 6th Cycle Housing Element related to the City's procedures and findings regarding reasonable accommodations; and

WHEREAS, the City shall provide a process for individuals with disabilities to make requests for, and be provided, reasonable accommodation, when reasonable accommodation is warranted based upon sufficient evidence, from the various City laws, rules, policies, practices and/or procedures of the City, including land use and zoning regulations; and

WHEREAS, it is the intent of this chapter that, notwithstanding time limits provided to perform specific functions, application review, decision making and appeals proceed expeditiously, especially where the request is time sensitive, so as to reduce impediments to equal access to housing; and

WHEREAS, the Planning Commission held a duly noticed public hearing on Ordinance No.1840 on February 15, 2022 at which time it considered all evidence presented, both written and oral; and

WHEREAS, after the close of the public hearing the Planning Commission adopted Resolution No. PC. 5-22 recommending that the City Council adopt Ordinance No. 1840 as revised, including the addition of Chapter 18.74 to Title 18 for reasonable accommodation policy and procedures; and

WHEREAS, on April 26, 2022 the City Council held a duly noticed public hearing on revised Ordinance No. 1840 at which time it considered all evidence presented, both written and oral;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. FINDINGS.

- A. The City Council finds that adopting the changes set forth in this Ordinance represents good planning practices because it provides individuals with disabilities reasonable accommodation in rules, policies, practices, and procedures to ensure the equal access to housing and facilitate the development of housing for individuals with disabilities.
- B. The City Council further finds that this Ordinance is consistent with the City's General Plan.

SECTION 2. Chapter 18.74 titled Reasonable Accommodations Policy and Procedures is hereby added to the Gardena Municipal Code to read as follows.

18.74 REASONABLE ACCOMMODATIONS POLICY AND PROCEDURES

18.74.010 Title, purpose, and applicability.

- A. Title and Intent. The provisions of this Chapter shall be known as the Reasonable Accommodations Policy and Procedures. The intent of the Reasonable Accommodations Policy and Procedures is to provide flexibility in the application of the zoning and building codes for individuals with a disability when flexibility is necessary to eliminate barriers to housing opportunities. This Chapter will facilitate compliance with federal and state fair housing laws and promote housing opportunities for residents of Gardena.
- B. Purpose. The purpose of this Chapter is to establish a procedure for persons with disabilities seeking fair access to housing to make requests for a reasonable accommodation in the application of Gardena's zoning and building laws, rules, policies, practices and procedures pursuant to Section 3604(f)(3)(b) of Title 42 of the United States Code (the "Fair Housing Act") and Section 12955 et seq. of the California Government Code (the "California Fair Employment and Housing Act"), which prohibit local government from refusing to make reasonable accommodations in policies and practices when these accommodations are necessary to afford persons with disabilities equal opportunity to use and enjoy a dwelling.

- C. Applicability. A request for a 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.

18.74.020 Definitions.

For the purposes of this Chapter, unless otherwise apparent from the context, certain words and phrases have the meanings stated in this section. The definitions stated herein apply to differing forms of the word or phrase, as required by context.

- A. "Director" means the Community Development Director or the Director's designee.
- B. "Eligible person" means a person with a disability, a representative of such person, or a developer of housing for persons with disabilities.
- C. "Person with a Disability" is any person 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 who has a record of such impairment.
- D. "Reasonable accommodation" for purposes of this chapter means providing individuals with disabilities or developers of housing for people with disabilities, flexibility in the application of land use and zoning and building regulations, policies, practices and procedures, or even waiving certain requirements when it is necessary to eliminate barriers to housing opportunities.
- E. "Request for Reasonable Accommodation" means a request to modify land use, zoning and building regulations, policies, practices, or procedures in order to give people with disabilities an equal opportunity to use and enjoy housing opportunities.

18.74.030 Notice to public.

Notice of the City of Gardena's Reasonable Accommodations Policy and Procedure along with an application form shall be displayed in the Community Development Department and on the City's website.

18.74.040 Reasonable accommodation request.

- A. Any eligible person may request a reasonable accommodation in land use, zoning and building regulations, policies, practices and procedures by filing an application with the Community Development Department.

- B. Requests for reasonable accommodation shall be in writing and provide the following information:
 - 1. Name and address of the individual(s) requesting reasonable accommodation;
 - 2. Name and address of the property owner(s);
 - 3. Address of the property for which accommodation is requested;
 - 4. Description of the requested accommodation and the regulation(s), policy or procedure for which accommodation is sought;
 - 5. Reason that the requested accommodation may be necessary for the individual(s) with the disability to use and enjoy the dwelling.
 - 6. If necessary to reach a determination on the request for reasonable accommodation, the reviewing authority may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request for additional information is made, the thirty (30) day period to issue a decision is stayed until the applicant responds to the request
- C. Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.
- D. If an individual needs assistance in making the request for reasonable accommodation, the City will provide assistance to ensure that the process is accessible.
- E. While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.

18.74.050 Timing of request.

- A. A request for reasonable accommodation may be filed at any time that the accommodation may be necessary to ensure equal access to housing.
- B. If the project for which the request is being made also requires one or more related discretionary approvals (including, but not limited to, design review, conditional use

permit, variance or subdivision), then to the extent feasible, the applicant shall file the request for reasonable accommodation together with the related application for discretionary approval.

18.74.060 Review procedures.

- A. The Director shall act on requests for a reasonable accommodation and shall make reasonable accommodations in rules, policies, practices, or services when those accommodations may be necessary to afford persons with disabilities equal opportunities to use and enjoy housing opportunities.
- B. The Director shall issue a written determination on a request for a reasonable accommodation within a timely manner but no later than thirty (30) days of the date of receipt of a complete application form and may: (1) grant the accommodation request; (2) grant the accommodation request subject to specified nondiscriminatory conditions of approval; or (3) deny the request. All written determinations shall give notice of the right to appeal as specified in Section 18.74.090. The notice of determination shall be sent to the applicant by first class mail or in a format requested by the applicant.
- C. For requests for a reasonable accommodation involving related applications for discretionary approval, the application shall be processed and considered separately from any discretionary elements of the same proposal. If the request for a reasonable accommodation cannot be effectuated until a final decision is rendered on the related discretionary approval(s), a "provisional decision" can be granted within the 30 day time frame and shall become final at the same time as the discretionary approval(s). The applications for the discretionary approval(s) shall be separately considered and shall be subject to the procedures specified in the applicable Zoning Code section. The appropriate decision-making body shall act on all discretionary permits, but not the reasonable accommodation request.

18.74.070 Findings for requests.

- A. In making a determination to grant a requested accommodation, the Director shall make all of the following findings for requests:
 - 1. That the housing, which is the subject of the request for reasonable accommodation, will be used by people with disabilities protected under fair housing laws.

2. That the accommodation is necessary to afford people with disabilities an equal opportunity to use and enjoy the dwelling;
 3. That the requested accommodation will not require a fundamental alteration to zoning laws, rules, policies, practices and procedures; and
 4. That the requested accommodation will not impose an undue financial or administrative burden on the City.
- B. None of the findings of this Section are intended to supersede any other findings which might also be required for a discretionary permit that is reviewed concurrently with the request for accommodation.

18.74.080 Finality of decision.

- A. For requests for reasonable accommodations not involving related land use permits, a decision by the Director shall become final ten (10) calendar days after the date of initial decision.
- B. For requests for reasonable accommodations involving related land use permits, a decision by the Director shall become final (10) calendar days after the date of decision on the related land use permit or the date of denial of the provisional permit, whichever is later.
- C. In the event that the last date of appeal falls on a weekend, holiday or when City offices are closed, the next date such offices are open for business shall be the last date of appeal.

18.74.090 Appeal Procedure

- A. Within ten (10) days of the date of the Director's written decision, an applicant may appeal an adverse decision. Appeals from the adverse decision shall be made in writing.
- B. If an individual needs assistance in filing an appeal on an adverse decision, the City will provide assistance to ensure that the appeal process is accessible.
- C. All appeals shall contain a statement of the grounds for the appeal. Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.
- D. Appeals shall be heard by the City Manager within thirty days of filing an appeal. The City Manager shall issue a written decision within ten days of the hearing and

the decision shall be final.

- E. Nothing in this procedure shall preclude an aggrieved individual from seeking any other state or federal remedy available.

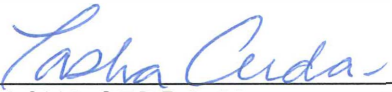
SECTION 3. CEQA. This Ordinance is categorically exempt from CEQA pursuant to the common sense exemption set forth in Guidelines section 15061(b)(3) that CEQA only applies to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that there is no possibility that the activity will have a significant effect, the activity is not subject to CEQA. This Ordinance enacts a procedure as required by federal and state law and does not change the density, intensity, or allowed uses or would have other effects on the environment. For these same reasons, the Ordinance also qualifies for an exemption under CEQA Guidelines section 15305 (Class 5) for minor alterations in land use limitations in areas with an average slope of less than 20%. No part of Gardena has a slope in excess of 20%. The changes are not for any specific project and therefore will not impact any environmental resource of hazardous or critical concern, will not create cumulative impacts, or impacts to scenic highways, hazardous waste sites, or historical resources. Because this is an ordinance pertaining to citywide development standards there will not be any significant effects on the environment due to unusual circumstances. As such, staff is directed to file a Notice of Exemption pursuant to CEQA Guidelines sections 15061(b)(3) and 15305.

SECTION 4. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

SECTION 5. This Ordinance shall take effect on the thirty-first day after passage.

SECTION 6. Certification. The City Clerk shall certify the passage of this ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a publication of general circulation.

PASSED, APPROVED AND ADOPTED this 24th day of May, 2022.


TASHA CERDA, Mayor

ATTEST:


MINA SEMENZA, City Clerk

APPROVED AS TO FORM:


LISA E. KRANITZ, Assistant City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss:
CITY OF GARDENA)

I, **MINA SEMENZA**, City Clerk of the City of Gardena, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Ordinance being **Ordinance No. 1840** was duly passed and adopted by the City Council of said City of Gardena, approved and signed by the Mayor of said City, and attested by the City Clerk, all at a special meeting of said City Council held on the **24th day of May 2022**, and that the same was so passed and adopted by the following roll call vote:

AYES: COUNCIL MEMBER FRANCIS, MAYOR CERDA, MAYOR PRO TEM TANAKA,
 AND COUNCIL MEMBERS HENDERSON AND KASKANIAN

NOES: NONE

ABSENT: NONE



City Clerk of the City of Gardena, California

(SEAL)