

ORDINANCE NO. 1003

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
MENLO PARK ADDING CHAPTER 16.83 [REASONABLE
ACCOMMODATION] TO TITLE 16 [ZONING] OF THE MENLO
PARK MUNICIPAL CODE**

The City Council of the City of Menlo Park does ordain as follows:

SECTION 1: The City Council of the City of Menlo Park hereby finds and declares as follows:

- a. The City desires to add Chapter 16.83 [Reasonable Accommodation] to Title 16 [Zoning] to fulfill implementing program H3.C in the City's current 2007-2014 Housing Element, which includes adopting an ordinance to provide individuals with disabilities reasonable accommodation in rules, policies, practices and procedures that may be necessary to ensure equal access to housing.
- b. The Planning Commission held a duly noticed public hearing on March 10, 2014 to review and consider the proposed addition of Chapter 16.83 [Reasonable Accommodation] to Title 16 [Zoning], at which all interested persons had the opportunity to appear and comment.
- c. The City Council held a duly noticed public hearing on April 1, 2014 to review and consider the addition of Chapter 16.83 [Reasonable Accommodation] to Title 16 [Zoning], at which all interested persons had the opportunity to appear and comment.
- d. After due consideration of the proposed addition of Chapter 16.83 [Reasonable Accommodation] to Title 16 [Zoning], public testimony, staff reports, and the Planning Commission recommendation, the City Council finds that the proposed ordinance is appropriate.

SECTION 2: Chapter 16.83 [Reasonable Accommodation] is hereby added to Title 16 [Zoning] to read as follows:

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Chapter 16.83

REASONABLE ACCOMMODATION

Sections:

- 16.83.010 Purpose
- 16.83.020 Applicability
- 16.83.030 Application requirements
- 16.83.040 Review authority
- 16.83.050 Findings and decision
- 16.83.060 Appeal determination
- 16.83.070 Rescission of grants of reasonable accommodation

16.83.010. Purpose

The purpose of this Chapter is to provide a procedure to request reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the California Fair Employment and Housing Act in the application of zoning laws and other land use regulations, policies and procedures, and to establish relevant criteria to be used when considering such requests.

16.83.020. Applicability

In order to make specific housing available to an individual with a disability, any person may request 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 his or her choice. 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. This Chapter applies only to those persons who are defined as disabled under the Federal Fair Housing Act and the California Fair Employment and Housing Act.

16.83.030. Application requirements

- (1) A request for reasonable accommodation shall be filed on the application form provided by the Community Development Department. If necessary to ensure accessibility, the applicant may request an alternative format. The applicant may be the person with the disability or his or her representative. The application shall be accompanied by a fee, set by the City Council, and be signed by the owner of the property and shall provide the following information:
 - (a) Applicant's name and contact information;
 - (b) Property address;
 - (c) Current use of the property;
 - (d) Basis for the claim that the individual is considered disabled under Fair Housing Laws;

- (e) The zoning code provision, regulation or policy from which reasonable accommodation is being requested;
 - (f) Explanation why the reasonable accommodation is necessary to make the specific property accessible to the individual; and
 - (g) Plans showing the details of the proposal.
- (2) If the project for which the request for reasonable accommodation is being made also requires some other discretionary approval under this Title (including but not limited to a conditional use permit, architectural control, variance, or zoning amendment), the application for reasonable accommodation shall be submitted and reviewed at the same time as the related applications.

16.83.040. Review authority

- (1) If an application under this Chapter is filed without any accompanying application for another approval, permit or entitlement under this Title, the Community Development Director shall make a written determination within 45 days and either grant, grant with modifications or deny a request for reasonable accommodation.
- (2) If an application under this Chapter is filed with an application for another approval, permit or entitlement under this Title, it shall be heard and acted upon at the same time and in the same manner as such other application, and shall be subject to all of the same procedures.

16.83.050. Findings and decision

- (1) Any decision on an application under this Chapter shall be supported by written findings addressing the criteria set forth in this subsection. An application under this Chapter for a reasonable accommodation shall be granted if all of the following findings are made:
- (a) The housing, which is the subject of the request, will be used by an individual disabled under the Federal Fair Housing Act and the California Fair Employment and Housing Act.
 - (b) The requested reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Federal Fair Housing Act and the California Fair Employment and Housing Act.
 - (c) The requested reasonable accommodation would not impose an undue financial or administrative burden on the City.
 - (d) The requested reasonable accommodation would not require a fundamental alteration in the nature of a City program or law, including but not limited to land use and zoning.
 - (e) The requested reasonable accommodation would not adversely impact surrounding properties or uses.
 - (f) There are no reasonable alternatives that would provide an equivalent level of benefit without requiring a modification or exception to the City's applicable rules, standards and practices.

- (2) 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 required by subsection (A) above.

16.83.060. Appeal determination

Any decision of the Community Development Director or designee may be appealed by the applicant to the Planning Commission. The appeal shall be made in writing and filed with the Community Development Director within 15 days following the final decision. The appeal shall be accompanied by a fee, as set by the City Council, and shall clearly state the reasons for the appeal. Where the request for accommodation is in conjunction with an application for another approval, permit or entitlement under this Title, the appeal procedures for such other approval, permit or entitlement shall control.

16.83.070. Rescission of grants of reasonable accommodation

Any approval or conditional approval of an application under this Chapter may be conditioned to provide for its rescission or automatic expiration under appropriate circumstances.

SECTION 3: A Negative Declaration was prepared that considered the environmental impacts of the adoption of procedures for reasonable accommodation for individuals with disabilities and determined that any potential environmental impacts were less than significant.

SECTION 4: If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 5: This Ordinance shall become effective 30 days after the date of its adoption. Within 15 days of its adoption, the Ordinance shall be posted in three public places within the City of Menlo Park, and the Ordinance, or a summary of the Ordinance prepared by the City Attorney shall be published in the local newspaper used to publish official notices for the City of Menlo Park prior to the effective date.

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INTRODUCED on the 1st day of April, 2014.

PASSED AND ADOPTED as an Ordinance of the City of Menlo Park at a regular meeting of the City Council of the City of Menlo Park on the 29th day of April, 2014, by the following vote:

AYES: Carlton, Cline, Keith, Ohtaki, Mueller

NOES: None

ABSENT: None

ABSTAIN: None



Ray Mueller
Mayor

ATTEST:



Pamela Aguilar
City Clerk