

ORDINANCE NO. 2019-07

**AN ORDINANCE OF THE CITY OF SAN JUAN BAUTISTA,
STATE OF CALIFORNIA, REVISING CHAPTER 2-5 (RESERVED) OF TITLE 2
(GOVERNMENT ORGANIZATION AND ADMINISTRATION) OF THE SAN JUAN
BAUTISTA MUNICIPAL CODE TO ADDRESS REASONABLE ACCOMMODATION**

WHEREAS, pursuant to Article XI, section 7 of the California Constitution, the City of San Juan Bautista may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens; and

WHEREAS, the San Juan Bautista City Council recognizes that 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 such accommodation may be necessary to afford individuals with disabilities an equal opportunity to housing; and

WHEREAS, the San Juan Bautista General Plan Housing Element, Housing Program 5.2, calls for the creation of a procedure wherein persons with disabilities, including persons with developmental disabilities, seeking equal access to housing may request reasonable accommodation in the application of zoning laws and other land use regulations, policies, and procedures; and

WHEREAS, the Attorney General of the State of California has recommended that cities and counties implement fair housing reasonable accommodation procedures for making land use and zoning determinations concerning individuals with disabilities to further the development of housing for individuals with disabilities; and

WHEREAS, a fair housing reasonable accommodation procedure for individuals with disabilities and developers of housing for individuals with disabilities to seek relief in the application of land use, zoning and building regulations, policies, practices and procedures will further the jurisdiction's compliance with federal and state fair housing laws and provide greater opportunities for the development of critically needed housing for individuals with disabilities; and

WHEREAS, this Ordinance protects the public health, safety and welfare by amending the San Juan Bautista Municipal Code to be consistent with mandates imposed by federal and state statute related to housing; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA), an initial study was prepared and circulated for public review and comment. The initial study found the environmental effects of the policies and programs contained in the General Plan Housing

Element, including environmental evaluation for the proposed changes to the municipal code, to be less than significant, with mitigation; and

WHEREAS, the City Council adopted the Initial Study and Mitigated Negative Declaration at its October 8, 2019 meeting;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA DOES ORDAIN AS FOLLOWS:

SECTION 1. RECITALS. All of the recitals set forth above are held to be true and correct and by this reference are hereby incorporated herein as findings.

SECTION 2. REVISIONS. Chapter 2-5 (Reserved) of Title 2 (Government Organization and Administration) of the San Juan Bautista Municipal Code is hereby revised to read in full as set forth in the attached Exhibit A, incorporated by this reference.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase should be declared invalid.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect and be in force 30 days after its adoption and shall be published by required by law.

THE FOREGOING ORDINANCE was first read at a regular meeting of the San Juan Bautista City Council on the 15th day of October, 2019, and was passed and adopted at a regular meeting of the San Juan Bautista City Council on the 19th day of November 2019.

AYES: Flores, Edge, Freeman, DeVries, Jordan

NOES: None

ABSENT: None

ABSTAIN: None



Mayor César Flores

ATTEST:


Laura Cent, City Clerk

**Chapter 2-5
REASONABLE ACCOMMODATION**

Sections:

Article 1. General Provisions

2-5-100	Intent and Purpose
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Article 1. General Provisions

2-5-100 Intent and purpose.

This Chapter is established pursuant to the provisions of California Government Code Sections 12927(c)(1) and 12955(1) to provide a formal 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 (the Acts) 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.

2-5-200 Applicability.

(A) 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.

(B) 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 Acts.

2-5-300 Application process.

(A) In order to make housing available to an individual with a disability, an applicant may request a reasonable accommodation in zoning and other land use regulations, policies, practices and procedures.

(B) All requests shall be reasonable and limited to the minimum that the applicant believes is necessary to accommodate the disability. Requests for reasonable accommodation shall be submitted via a form approved by the Planning Department, together with the appropriate fee, and shall be filed with the Planning Department. The applicant is requested to provide the following information:

- (1) Name and address of the applicant;
- (2) Name and address of the property owner(s);
- (3) Address of the property for which accommodation is requested;
- (4) The current use of the property for which accommodation is requested;
- (5) Description of the requested accommodation, and the regulation(s), policy or procedure for which accommodation is sought, which could include site plans, floor plans, and/or details as necessary to define the extent of the accommodation;
- (6) The basis for the claim that the fair housing laws apply to the individual(s) with a disability and evidence supporting the claim, which may be in the form of a letter from a medical doctor or other licensed healthcare professional, a handicapped license, or other appropriate evidence;
- (7) Reason that the requested accommodation may be necessary for the individual(s) with the disability to use and enjoy the property; and
- (8) How the property will be used by the applicant and individual(s) with disabilities.

(C) Any information identified by the applicant as confidential shall be retained by the City in a manner so as to respect the privacy rights of the individual with a disability and shall not be made available for public inspection, subject to the requirements of the California Public Records Act and other applicable law.

(D) A request for reasonable accommodation in regulations, policies, practices and procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation does not affect an applicant's obligation to comply with other applicable regulations not at issue in the requested reasonable accommodation.

(E) If a person needs assistance in making the request for reasonable accommodation, the city will provide assistance to ensure that the process is accessible. Such assistance shall be limited to that which can be provided by existing city staff, and in no case shall the city be responsible for hiring any outside expert to assist an individual.

(F) The fee for an application for reasonable accommodation shall be established by resolution of the City Council.

2-5-400 Approval process.

(A) Approval Authority:

(1) Administrative Review – The City Manager or an appointed designee has the authority to review and decide upon requests for reasonable accommodation, including whether the applicant is a disabled person within the meaning of this Chapter. The City Manager or appointed designee may refer the matter to the Planning Commission, as appropriate.

(2) Planning Commission Review – The Planning Commission has the authority to review and decide upon requests for reasonable accommodation, including whether the applicant is a disabled person within the meaning of this Chapter, when referred by the City Manager or when a reasonable accommodation request includes any encroachment into the front yard setback area, results in a building size increase above what is allowed in the applicable zoning district with respect to height, lot coverage and floor area ratio maximums, or whenever a reduction in required parking is requested.

(B) Notice: No advance notice or public hearing is required for consideration of reasonable accommodation requests by the City Manager. Requests for reasonable accommodation subject to review by the Planning Commission shall require a public hearing, and advance notice shall be given pursuant to the requirements of Section 11-17-020 (Notice of Hearing) of Chapter 11-17 (Permit Application Submittal) of Title 11 (Zoning) of the San Juan Bautista Municipal Code.

(C) Decision: The City Manager or an appointed designee shall render a decision or refer the matter to the Planning Commission within 30 days after the application is complete, and shall approve, approve with conditions or deny the application, based on the findings set forth in Section 2-5-500(A). The decision shall be in writing and mailed to the applicant.

(1) If the application for reasonable accommodation involves another discretionary decision, the reviewing body for that decision shall accept as final the determination regarding reasonable accommodation by the City Manager or an appointed designee, unless the reasonable accommodation request has been referred by the City Manager or an appointed designee to the Planning Commission for consideration.

(2) If the application for reasonable accommodation is referred to, or reviewed by, the Planning Commission, a decision to approve, approve with conditions, or deny the application shall be rendered within 20 working days after the close of the public hearing, based on the findings set forth above.

2-5-500 Findings and decision.

(A) Any decision on an application under this Chapter shall be supported by written findings addressing the criteria set forth in this section. An application under this Chapter for a reasonable accommodation shall be granted if all of the following findings are made:

- (1) The housing, which is the subject of the request, will be used by an individual disabled as defined under the Acts.
- (2) The requested reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Acts.
- (3) The requested reasonable accommodation would not impose an undue financial or administrative burden on the city.
- (4) 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.
- (5) 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.

(B) 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 Section 2-5-500(A) above.

2-5-600 Appeals determination.

Any decision on an application under this Chapter shall be subject to appeal pursuant to Chapter 11-25 (Appeals) of Title 11 (Zoning) of the San Juan Bautista Municipal Code.