

AGENDA ITEM: 2.

DATE: 09-19-11

STAFF REPORT

AMENDMENTS TO LANCASTER MUNICIPAL CODE (TITLE 17) FOR COMPLIANCE WITH FAIR HOUSING AND DISABILITY LAWS

DATE: September 19, 2011

TO: Lancaster Planning Commission

FROM: Planning Department

APPLICANT: City of Lancaster

LOCATION: City-wide

REQUEST: Amendment of various sections of Title 17 in the Lancaster Municipal Code for compliance with fair housing and disability laws

RECOMMENDATION: Adopt Resolution No. 11-12, recommending to the City Council approval of an ordinance to amend the Zoning Code (Title 17 of the Lancaster Municipal Code (LMC)) for compliance with fair housing and disability laws, including provisions addressing therapy animals for persons with disabilities (Section 17.08.310), parking pursuant to the Americans with Disabilities Act (“ADA”) (Section 17.08.140), and an ordinance for reasonable accommodation (Section 17.08.400).

BACKGROUND: As part of the Annual Action Plan grant application, the City is required to take appropriate actions to address and overcome the impediments identified in the Analysis of Impediments to Fair Housing Choice. To do this, the City is ensuring zoning and land use code compliance with the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973, including the recommendation of the proposed amendments.

ENVIRONMENTAL REVIEW: Pursuant to Sections 15162 and 15168(c)(2) of the State CEQA Guidelines, the proposed update is within the scope of the Program Environmental Impact Report (SCH #2007111003) for the existing Lancaster General Plan, and no further environmental review is required.

LEGAL NOTICE: Notice of Public Hearing was posted in three places, and noticed in a newspaper of general circulation per prescribed procedure.

ANALYSIS: The proposed amendments to Title 17 are necessary for compliance with fair housing and disability laws. Currently, the LMC is silent on the issue of therapy animals. Under fair housing laws, a housing provider must accommodate a person with a disability who requests a reasonable and necessary animal. The City recommends amending Section 17.08.310 (Animal Regulations) to address this provision.

The LMC is also silent on the number of parking spaces for persons with disabilities, even though the City routinely implements the provision of such parking spaces in accordance with ADA and California building code regulations. The City recommends amending Section 17.08.140 (Off-street Parking) to explicitly state the number of required off-street parking spaces for persons with disabilities, dependent on the total number of parking spaces provided, in particular relating to multiple family dwellings.

In addition to the amendments described above, the City is recommending the adoption of a reasonable accommodation ordinance. Reasonable accommodation means a waiver or modification to regulations, policies, procedures and standards that may be reasonable and necessary for a person with a disability to have an equal opportunity to use and enjoy a residential use. This ordinance would establish a procedure to request reasonable accommodation for persons with disabilities, under the Fair Housing Act.

Staff recommends to the Planning Commission that it recommends to the City Council approval of an ordinance to amend the Zoning Code (Title 17 of the LMC) for compliance with fair housing and disability laws.

Respectfully submitted,

Chuen Ng, Associate Planner

RESOLUTION NO. 11-12

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LANCASTER, CALIFORNIA, RECOMMENDING TO THE CITY COUNCIL APPROVAL OF AMENDMENTS TO TITLE 17 OF THE LANCASTER MUNICIPAL CODE FOR COMPLIANCE WITH FAIR HOUSING AND DISABILITY LAWS

WHEREAS, the State of California Government Code requires zoning to be consistent with the City's General Plan; and

WHEREAS, as part of the Annual Action Plan application, the City is taking appropriate actions to address and overcome the impediments identified in the Analysis of Impediments to Fair Housing Choice; and

WHEREAS, the City is ensuring zoning and land use code compliance with the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973; and

WHEREAS, staff is recommending amendments to the Zoning Code (Title 17 of the Lancaster Municipal Code (LMC)) for compliance with fair housing and disability laws, including provisions addressing therapy animals for persons with disabilities (Section 17.08.310), parking pursuant to the Americans with Disabilities Act ("ADA") (Section 17.08.140), and an ordinance for reasonable accommodation (Section 17.08.400); and

WHEREAS, notice of intention to consider the amendments to Title 17 of the LMC has been given in accordance with Section 65090 of the Government Code of the State of California; and

WHEREAS, staff has prepared a written report recommending approval of the amendments to Title 17 of the LMC for compliance with fair housing and disability laws; and

WHEREAS, the proposed amendments to Title 17 of the LMC will not have a significant effect on the environment, since these proposed actions are within the scope of the Program Environment Impact Report (SCH #2007111003) prepared for the Lancaster General Plan, and no further environmental review is required; and

WHEREAS, the Planning Commission, based upon evidence in the record hereby makes the following findings in support of amending Title 17 of the Lancaster Municipal Code, including Sections 17.08.310, 17.08.140 and 17.08.400:

1. The amendments to Title 17 of the Lancaster Municipal Code are necessary for compliance with federal fair housing and disability laws.
2. The amendments to Title 17 of the Lancaster Municipal Code implements the goals and policies of the Lancaster General Plan, in particular, Goal 8 of the Housing Element, which "promote[s] provision of adequate housing opportunities for those

desiring to live in Lancaster, regardless of age, race, ethnic background, color, national origin, religion, familial status, marital status, disability, sex, sexual orientation, ancestry, source of income and any other protected class under state and federal law.

NOW, THEREFORE, BE IT RESOLVED:

This Commission hereby recommends that the City Council approve the amendments to Title 17 of the Lancaster Municipal Code as shown on Exhibit "A" for compliance with fair housing and disability laws.

PASSED, APPROVED and ADOPTED this 19th day of September 2011, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

JAMES D. VOSE, Chairman
Lancaster Planning Commission

ATTEST:

BRIAN S. LUDICKE, Planning Director
City of Lancaster

EXHIBIT “A”

Title 17 of the Lancaster Municipal Code is recommended to be amended as follows:

Section 1. Add Section 17.08.310.D to read as follows:

“D. Therapy and service animals. In accordance with fair housing law, a housing provider shall accommodate a person with a disability who requests a reasonable and necessary animal. Such animals may include, but are not limited to, guide dogs that assist persons with visual impairment, hearing dogs trained to alert those who are hard of hearing, service dogs trained to assist those with mobility impairment, or other animals intended to provide therapy, including emotional support.”

Section 2. Add Section 17.08.140.D to read as follows:

“D. Accessible parking. Housing providers shall adhere to the accessible parking regulations of the American Disabilities Act “ADA,” Part 20 of the United States Code of Federal Regulations, and the California Building Code. In accordance to these regulations, housing providers shall establish the following number of accessible parking spaces for multiple-family developments: ”

Total Number of Parking Spaces in Lot or Garage	Minimum Required Number of Accessible Spaces
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1,000	Two percent of total
1,001 and over	Twenty plus one for each 100, or fraction over 1,001

Section 3. Add Section 17.08.400 to read as follows:

“17.08.400 – Reasonable Accommodation.

A. Purpose. The reasonable accommodation procedure provides a process 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.

- B. Applicability. A request for reasonable accommodation may be made by any person with a disability (or their representative), when the application of zoning law or other land use regulation acts as a barrier to fair housing opportunities. A request for reasonable accommodation may include a modification or exception to the standards for the siting, development and use of housing that would result in the removal of regulatory barriers and provision of equal housing opportunity.
- C. Application requirements. Requests for reasonable accommodation shall be submitted on an application form provided by the Planning Department, or in the form of a letter, to the Planning Director and shall contain the following information:
 - 1. The applicant's name, address and telephone number.
 - 2. Address of the property for which the request is being made.
 - 3. Record owner of property. In the event the nature of the requested accommodation is one that would ordinarily require the consent of the landlord or property owner, such consent shall be submitted, in writing, with the application.
 - 4. Description of current uses of the property.
 - 5. A description of the impairment of major life activities for which reasonable accommodation is requested.
 - 6. Description of the requested accommodation that is being requested.
 - 7. The reason why the reasonable accommodation is necessary to ensure equal access to specific property.
- D. Review authority and procedure. The Planning Director, or the Planning Director's designee, shall make a written determination within 45 days and either grant, grant with modifications, or deny a request for reasonable accommodation based on findings listed in this section and in accordance with the Fair Housing Act.
- E. Findings. The written decision to grant or deny the request for reasonable accommodation shall be consistent with the Fair Housing Act and shall be based on consideration of the following findings:
 - 1. The reasonable accommodation will be used by an individual disabled under the Fair Housing Act.
 - 2. The request for reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Fair Housing Act.
 - 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. The requested reasonable accommodation would not impair the reasonable use of adjacent properties.
- F. Decision. The decision shall be based on the ability to make the findings listed in this section, in consistency with the Fair Housing Act, as well as consideration of the accommodation's physical attributes, and whether there are alternative reasonable accommodations which may provide an equivalent level of benefit.
- G. Appeal of determination. A determination by the reviewing authority to grant or deny a request for reasonable accommodation may be appealed to the Planning Commission pursuant to Section 17.32.820 of the Zoning Code."
- H. All information provided in conjunction with a request for reasonable accommodation shall be kept confidential, and shall only be shared with persons properly designated to make or assess a decision to grant or deny the reasonable accommodation request, or unless disclosure is required by law.
- I. A reasonable accommodation is personal to the applicant and shall not be transferable to, or inure to the benefit of, subsequent owners, tenants, or occupants.