



# County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING  
ALAN WEAVER, DIRECTOR

## Planning Commission Staff Report Agenda Item No. 4 October 8, 2015

**SUBJECT:** Amendment to Text Application No. 371  
  
Amend multiple sections of the Fresno County Zoning Ordinance to accommodate state-mandated provisions as part of the Fourth-Cycle Housing Element Update.

**APPLICANT:** Fresno County

**STAFF CONTACT:** Chris Motta, Principal Planner  
(559) 600-4227

**RECOMMENDATION:**

- Consider and recommend approval of Amendment to Text Application No. 371; and
- Direct the Secretary to prepare a Resolution forwarding the Commission's recommendation for approval to the Board of Supervisors.

**EXHIBITS:**

1. Proposed changes to the Fresno County Zoning Ordinance including Sections 803.7 – SPECIFIC DEFINITIONS, GROUP F; 803.11, GROUP J; 803.14, GROUP M; 803.16, GROUP O; 803.17, GROUP P; Sections 816.1, 817.1, 817.2, 838.1, 842.1 – USES PERMITTED
2. Proposed Section 855-O PROPERTY DEVELOPMENT STANDARDS – SPECIAL STANDARDS OF PRACTICE AND REGULATIONS TO IMPLEMENT THE FRESNO COUNTY HOUSING ELEMENT

**ENVIRONMENTAL ANALYSIS:**

It has been determined, pursuant to Section 15061(b)(3) of the State California Environmental Quality Act (CEQA) Guidelines that the project will not have a significant effect on the environment and is not subject to CEQA.

## **PUBLIC NOTICE:**

Notification of today's hearing was published in the Fresno Business Journal on September 25, 2015.

## **PROCEDURAL CONSIDERATIONS:**

Adoption of a Zoning Ordinance Amendment is a legislative act requiring action by the Board of Supervisors. The Planning Commission's action is advisory to the Board. The Board is anticipated to hear this matter in November of 2015. The Amendment, upon adoption, will become effective 30 days later.

## **BACKGROUND INFORMATION:**

The State of California housing law requires local jurisdictions to prepare and adopt a Housing Element as part of their General Plan, and mandates that local governments adequately plan to meet the existing and projected housing needs of all economic segments of the community. While there are seven General Plan Elements mandated by the State of California, only the Housing Element must be updated on a schedule determined by the State that is set forth in the Government Code. The most recent Housing Element adoption effort is for the fourth-cycle update for the Fresno County region and covers the planning period of July 1, 2008 through December 31, 2015.

State Housing Element law requirements are found in California Government Code Sections 65580 through 65589. The State Department of Housing and Community Development (HCD) is the agency that administers the law by reviewing each jurisdiction's Housing Element for statutory compliance. When the locally-adopted document substantially meets State law requirements, it is considered approved or "certified" by HCD.

For the fourth-cycle update to meet State requirements, certain sections of the Fresno County Zoning Ordinance must be amended or updated. Amendment to Text Application No. 371 encapsulates these required changes in one action to be considered for recommendation for approval by the Planning Commission and to be forwarded to the Board of Supervisors for final action. The required changes include:

- Specific provisions for emergency shelters, transitional housing, supportive housing, and reasonable accommodations;
- Permitting farmworker housing in all of the County's primary agricultural zones; and
- Permitting employee housing for six or fewer employees as a single-family structure and permitted in the same manner as other dwellings of the same type in the same zone per the requirements of The Employee Housing Act and California Health and Safety Code 17021.5.

The proposed text changes are attached as Exhibits 1 and 2 of this staff report. Exhibit 1 represents new definitions and additions of permitted uses in affected Zone Districts, while Exhibit 2 represents a new section to Zoning Ordinance Section 855 (Property Development Standards) specific to the Housing Element Update.

The Draft Housing Element was reviewed by the Planning Commission on June 4, 2015 and by the Board of Supervisors on July 14, 2015, prior to submittal of the Draft Housing Element for HCD review.

## **ANALYSIS/DISCUSSION:**

The purpose of this Amendment to Text is to amend multiple sections of the Fresno County Zoning Ordinance to accommodate state-mandated provisions as part of the Fourth-Cycle Housing Element Update. The amendments proposed include: provisions for emergency shelters, transitional housing, supportive housing, and reasonable accommodations; accommodating farmworker housing in the County's primary agricultural zones; and allowing employee housing for six or fewer employees as a single-family use per The Employee Housing Act and California Health and Safety Code Section 17021.5. Many of these requirements were mandated by changing California legislation since the adoption of the last Housing Element in 2003.

As an example, for emergency shelters and supportive and transitional housing, in January of 2008, Senate Bill No. 2 (Cedillo) became effective, clarifying and strengthening housing element law by requiring that jurisdictions facilitate emergency shelters, limit the denial of such uses, and make provisions for transitional and supportive housing in their respective zoning ordinances. The legislation also stipulated that although the local government can establish objective development and management standards for the operation of emergency shelters, such as size, parking standards, and lighting, the locality must demonstrate that any management or development standards as well as any permit processing standards it applies are objective and encourage the creation of the uses; thus the local agency cannot unreasonably deny approval of the uses.

As it pertains to reasonable accommodations, fair housing laws have increasingly required jurisdictions to lift constraints on housing for those individuals with disabilities. The federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act prohibit discrimination against individuals with disabilities in housing and require that cities and counties take affirmative action to eliminate regulations and practices that deny housing opportunities to individuals with disabilities. These laws require agencies to provide flexibility in the application of land use, zoning and building regulations, and practices and procedures as it relates to those with disabilities. This was bolstered in May of 2001 by the California Attorney General, who issued a letter to local governments stating their affirmative duty under fair housing laws to provide reasonable accommodation, and rejecting local governments' use of the variance or conditional use permit process to evaluate requests for reasonable accommodation under fair housing laws. In response, many cities throughout the state indicated that they were adopting fair housing reasonable accommodation procedures as one way of addressing barriers in land use and zoning regulations and procedures.

Section 17021.5 of the California Health and Safety Code requires that any employee housing occupied by six or fewer employees be deemed a single-family structure with a residential land use, and that such uses will be treated the same as a single-family dwelling of the same type in the same zone.

Exhibit 1 lists new definitions for Emergency Shelters, Temporary Farm Labor Housing, Reasonable Accommodations, Supportive and Employee Housing and Transitional Housing. Only relevant residential or agricultural districts will be amended to permit these uses. The uses are proposed as by-right uses and not subject to a discretionary land use permit.

Exhibit 2 provides for a new subsection to Section 855 of the Fresno County Zoning Ordinance. Section 855-O provides for special standards to accommodate the Housing Element and include the provisions for Emergency Shelters, Temporary Farm Labor Housing, Supportive Housing, and Transitional Housing. Specific procedures for considering and permitting requests for Reasonable Accommodations are also provided in this section. Including these new sections would bring the Fresno County Zoning Ordinance into compliance with State Law.

The majority of the proposed changes are found in a newly-created subsection of Section 855 (855-O) which pertains specifically to special standards to implement the Housing Element. An exception is Employee Housing, which is considered a by-right residential use if the number of employees does not exceed six. A definition of the use has been added to Section 803.7 of the Zoning Ordinance. The definition clearly defines Employee Housing as being for six or fewer employees and that the use shall be deemed a residential use.

Other definitions, including Emergency Shelters, Farm Labor Housing and Reasonable Accommodations are defined in the Definitions Section of the Zoning Ordinance, with additional performance criteria or development information found in Section 855-O. For example, for Emergency Shelters, the affected commercial zones are listed (C-4 and C-M). The C-4 (Central Trading District) and C-M (Commercial and Light Manufacturing) districts have been determined to be the most compatible districts to accommodate the state-mandated uses with fewer possible conflicts with residential or less intensive commercial zoning districts, while not relegating the use to industrial districts where the availability of services or transit may act as a barrier to those populations seeking these facilities. Certain development characteristics such as lighting and parking are provided, and additional review criteria and the ability for the County to charge a fee for the review are also listed.

Farmworker housing is also defined and permitted, both as temporary and permanent uses, with specific standards for their implementation. A process to provide for reasonable accommodations to bring the Zoning Ordinance into compliance with the Americans with Disabilities Act, Fair Housing Act and other provisions of state and federal law has been provided, with a process for submittal, review and consideration. Furthermore, a process for rescission of the accommodation has been provided, should the accommodation be determined no longer necessary. Finally, definitions for both supportive and transitional housing have been established.

#### **CONCLUSION:**

Staff recommends that changes and additions to the Fresno County Zoning Ordinance be made as provided in Exhibits 1 and 2 attached to this Staff Report. (Note: **Sections** are proposed as additions to the Ordinance).



**PLANNING COMMISSION MOTION:**

**Recommended Motion**

- Approve Amendment to Text Application No. 371 as proposed; and
- Direct the Secretary to prepare a Resolution forwarding the Commission's recommendation for approval to the Board of Supervisors.

CM:ksn  
G:\4360Devs&PIn\PROJSEC\PROJDOCS\AT371 ZO Edits for 4th Cycle HE\SR\AT 371 SR.doc

# EXHIBIT 1

## SECTION 803.7 - SPECIFIC DEFINITIONS GROUP F

EMERGENCY SHELTERS shall mean housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or households may be denied emergency shelter because of an inability to pay. Emergency Shelters are permitted in the C-4 and C-M districts. The Special Standards of Section 855-O shall apply.

EMPLOYEE HOUSING shall mean housing providing accommodations for six or fewer employees and shall be deemed a single-family structure and a residential use of the property by a single household per the requirements of Section 17021.5 of the California Health and Safety Code.

FARM LABOR CAMP shall mean the same as "Labor Camp, Farm."

FARM LABOR HOUSING, TEMPORARY shall mean temporary residential accommodations (e.g., tents, travel trailers, etc.) provided for the shelter needs of individuals and families hired to meet the short-term needs (not to exceed 90 consecutive days) of an on-site bona fide commercial agricultural/farming operation (or off-site operations owned or managed by the same agricultural operation), provided for five or more temporary farm employees. Temporary Farm Labor Housing is permitted in the A-E and A-L districts.

FARMWORKER shall mean a person who derives more than half of their total income as an employee in the service of an active agricultural operation.

FARM WORKER DWELLING UNIT shall mean any single-family residential unit occupied by a maximum of six farmworkers (per California Health and Safety Code Section 17021.5), and such a unit shall be deemed a single-family structure and a residential use of the property. A unit meeting this definition is not subject to any special land use permitting requirements or restrictions beyond the permitting requirements for a single-family residential unit within the subject zone district. A Farm Worker Dwelling Unit shall not be included within the definition of a boarding house, rooming house, hotel, dormitory or other similar use that implies the unit is a for-profit business or a use that differs in any way from a single-family dwelling. A Farm Worker Dwelling Unit is permitted in the A-E and A-L districts.

FARM WORKER HOUSING COMPLEX shall mean any farmworker housing other than a Farm Worker Dwelling Unit that: 1) contains a maximum of 36 beds if the housing consists of group living quarters such as barracks or bunkhouses, and is occupied exclusively by farmworkers; or 2) contains a maximum of 12 residential units occupied exclusively by farmworkers and their households if the housing does not consist of group living quarters (per California Health and Safety Code Section 17021.6). A Farm Worker Housing Complex is considered an ancillary agricultural land use. A Farm Worker Housing Complex is permitted in the A-E and A-L districts. The Special Standards of Section 855-O shall apply.

## SECTION 803.11 - SPECIFIC DEFINITIONS GROUP J

~~LABOR CAMP, PERMANENT FARM~~ shall mean living quarters, dwellings, boarding houses, bunkhouses, automobile trailers or other permanent housing accommodations maintained in connection with any farm work or place where farm work is being performed, provided for the housing of five (5) or more farm employees.

~~LABOR CAMP, TEMPORARY FARM~~ shall mean living quarters such as tents or automobile trailers temporarily maintained in connection with any farm work or place where farm work is being performed on the premises, provided for the camping for five (5) or more temporary farm employees. Such camp shall be occupied or used for a period not to exceed ninety (90) consecutive days.

## SECTION 803.14 - SPECIFIC DEFINITIONS GROUP M

**REASONABLE ACCOMMODATIONS shall mean a procedure to request Reasonable Accommodation for persons with disabilities seeking equal access to housing under the California Fair Employment and Housing Act, the Federal Fair Housing Act, and the Americans with Disabilities Act (ADA) (also known as the Acts) in the application of zoning laws and other land use regulations, policies, and procedures. A Reasonable Accommodation is typically an adjustment to physical design standards (e.g., setbacks) to accommodate the placement of wheelchair ramps or other exterior modifications to a dwelling in response to the needs of a disabled resident. The procedures for considering a Reasonable Accommodations Request in Section 855-O shall apply.**

## SECTION 803.16 - SPECIFIC DEFINITIONS GROUP O

**SUPPORTIVE HOUSING shall mean housing with no limit on length of stay, that is occupied by the target population as defined in Government Code Section 65582(g) and that is linked to on-site or off-site services that assist the supportive housing resident in retaining the housing, improving his/her health status, and maximizing his/her ability to live, and when possible, work in the community. Supportive housing units are residential uses subject to those requirements and restrictions that apply to other residential uses of the same type in the same zone and must meet the underlying zoning district's development standards, including density. For those districts in which residential uses are permitted only with approval of a discretionary land use permit, such a permit must be obtained to permit the establishment of supportive housing.**

## SECTION 803.17 - SPECIFIC DEFINITIONS GROUP P

**TRANSITIONAL HOUSING shall mean buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculation of the assistive unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of assistance. Transitional housing units are residential uses subject to those requirements and restrictions that apply to other residential uses of the same type in the same zone. For those districts in which residential uses are permitted only with approval**

of a discretionary land use permit, such a permit must be obtained to permit the establishment of transitional housing.

SECTION 816.1 - USES PERMITTED

Temporary farm labor housing subject to the provisions of 855-O.

Farm Worker Dwelling Units subject to the provisions of 855-O.

Farm Worker Housing Complexes subject to the provisions of 855-O.

~~H. The maintenance of temporary and permanent farm labor camps when carried on as a secondary function in conjunction with a bona fide agricultural operation. The density standards of Section 816.5-C shall not apply.~~

SECTION 817.1 - USES PERMITTED

Temporary farm labor housing subject to the provisions of 855-O.

Farm worker dwelling units subject to the provisions of 855-O.

Farm worker housing complexes subject to the provisions of 855-O.

SECTION 817.2 - USES PERMITTED SUBJECT TO DIRECTOR REVIEW AND APPROVAL

~~E. Temporary and permanent farm labor camps when carried on as a secondary function in conjunction with a bona fide agricultural operation. The density standards of Section 817.5-C shall not apply.~~

SECTION 838.1 - USES PERMITTED

Emergency shelters subject to the provisions of 855-O.

SECTION 842.1 - USES PERMITTED

Emergency shelters subject to the provisions of 855-O.

## EXHIBIT 2

### SECTION 855

#### PROPERTY DEVELOPMENT STANDARDS

#### SECTION 855-O. PROPERTY DEVELOPMENT STANDARDS – SPECIAL STANDARDS OF PRACTICE AND REGULATIONS TO IMPLEMENT THE FRESNO COUNTY HOUSING ELEMENT

The following standards of practice and regulations shall apply to special uses and conditions as listed below that assist in implementing the Housing Element:

##### 1. Emergency Shelters

This Section provides use and development regulations for emergency shelters in compliance with State law and as defined in Section 803.7 (Specific Definitions – Group F). All facilities shall comply with the following standards:

a. Emergency Shelters shall be allowed in the C-4 and C-M Zone Districts.

b. In addition to the development standards in the underlying zone, the following standards apply to emergency shelters, where allowed, and each emergency shelter shall comply with the standards specified in this Section. In the event of conflict between these standards and the underlying zone regulations, the provisions of this Section shall apply:

(1) The facility shall comply with applicable State and local standards and requirements and Federal, State, and local licensing requirements for any programs incidental to the emergency shelter.

(2) Physical characteristics.

(a) The facility shall comply with applicable State and local uniform Housing and Building Code requirements.

(b) The facility shall have on-site security during all hours when the shelter is open.

(c) Facilities shall provide exterior lighting on pedestrian pathways and parking lot areas on the property. Lighting shall be directed away from residential areas and public streets.

(d) Facilities shall provide secure areas for personal property.

(3) When not developed in an individual dwelling unit format, emergency shelters shall not be subject to the underlying zone's maximum unit density standard, but the number of beds shall be

limited to three times the maximum number of dwelling units which would otherwise be allowed.

- (4) The maximum term of stay at an emergency shelter is 180 days within a consecutive 12-month period.
- (5) The emergency shelter shall provide on-site parking at a rate of one space for each facility staff member, plus one space for each ten (10) beds/occupants allowed at the maximum capacity.
- (6) Emergency shelter management plans shall be required.
  - (a) A management plan is required for all emergency shelters to address management experience, good neighbor issues, transportation, client supervision, client services, and food services.
  - (b) The plan shall be submitted to and subject to the approval by the Director of Public Works and Planning before operation of the emergency shelter can begin.
  - (c) The plan shall include a floor plan that demonstrates compliance with the physical standards of this Section.
  - (d) The operator of each emergency shelter shall annually submit an updated management plan to the Director of Public Works and Planning with up-to-date information for review and approval.
  - (e) The Board may establish a fee by resolution to cover the administrative cost of review of the required management plan in compliance with the Master Schedule of Fees.

## 2. Farm Labor Housing, Temporary

This Section provides use and development regulations for Temporary Farm Labor Housing in compliance with State law and as defined in Section 803.7 (Specific Definitions – Group F).

- a. Temporary Farm Labor Housing shall be allowed in the AE and AL Zone Districts.
- b. Temporary Farm Labor Housing shall consist of Temporary residential accommodations (e.g., tents, travel trailers, etc.) to provide for the shelter needs of individuals and families hired to meet the short-term needs (not to exceed 90 consecutive days) of an on-site bona fide commercial agricultural/farming operation (or off-site operations owned or managed by the same agricultural operation), to accommodate five or more temporary farm employees.

- c. Temporary Farm Labor Housing must meet the minimum County Standards provided for Farm Worker Housing Complexes as defined in Section 855-O.3.e below.

3. Farm Worker Housing Complexes

This Section provides use and development regulations for Farm Worker Housing Complexes in compliance with State law and as defined in Section 803.7 (Specific Definitions – Group F). Farmworker housing for farm employees and their families consisting of up to thirty-six (36) beds in a group quarters (Farm Worker Housing Complex) or up to twelve (12) Farm Worker Dwelling Units shall be allowed subject to the provisions of this Section. Every person, or agent or officer thereof, constructing, operating, or maintaining a Farm Worker Housing Complex shall comply with the requirements of this Section and all applicable health, safety and building codes and standards.

- a. A Farm Worker Housing Complex shall be allowed in the AE and AL Zone Districts.
- b. A Farm Worker Housing Complex does not need to be located on the site of a qualifying agricultural operation where the farmworkers are employed.
- c. A Farm Worker Housing Complex provided by the employer and maintained in connection with the work or place where work is being performed must comply with all provisions of Section 17008(a) of the California Health and Safety Code.
- d. A Farm Worker Housing Complex not maintained in connection with any workplace and provided by someone other than an agricultural employer must comply with all provisions of Section 17008(b) of the California Health and Safety Code.
- e. In addition to California Code, Farm Worker Housing Complexes must meet the following minimum County standards:
- (1) The minimum parcel size to establish a Farm Worker Housing Complex shall be 20 acres as stipulated by the standard minimum parcel size for qualifying agricultural operations within Agriculturally-designated properties within the County.
  - (2) No more than thirty-six (36) beds in a group quarters or up to twelve (12) Farm Worker Dwelling Units or spaces designed for use by a single family or household are allowed on an individual parcel.
  - (3) Building Height - The provisions of the “R-2” District, Section 827 shall apply.
  - (4) Yards - The provisions of the “AE” District, Section 816 shall apply, except that year-round Farm Worker Housing Complexes, which are those housing complexes occupied by one or more tenants of the

farming operation on a year-round basis, must be set back a minimum of two hundred (200) feet from any property lines adjacent to a residential zoning district.

- (5) Space Between Buildings - The provisions of the "R-2" District, Section 827 shall apply, except that no animal or fowl pen, coop, stable, barn or corral shall be located within forty (40) feet of any dwelling or other building used for human habitation.
  - (6) Off-Street Parking for Farm Worker Housing Complexes based on individual units (12 units maximum per 20-acre parcel) - There shall be at least one (1) designated parking space for every dwelling unit. Spaces must be marked and maintained in a dust-free manner with surfacing such as gravel or other material as approved by the Director of the Department of Public Works and Planning. These spaces shall be on the same lot with the main building which they are intended to serve and located to the rear of the required front yard.
  - (7) Off-Street Parking for Farm Worker Housing Complexes based on dormitory beds (36 beds maximum per 20-acre parcel) – The parking standards of 855-I – Rooming Houses, Lodging Houses, Clubs and Fraternity and Sorority Houses shall apply.
  - (8) All Farm Worker Housing Complexes not connected to community sewer or water shall meet the minimum on-site County separation requirements for well and septic systems. Further, evidence must be provided to the County Health Officer that the on-site soils meet State and local standards for on-site wastewater treatment systems (septic systems). All Farmworker Housing Complexes meeting the definition of a Public Drinking Water System shall comply with State Water Resources Control Board standards (Health and Safety Code, Title 17 and 22).
  - (9) All units constructed shall meet the minimum required building and safety code requirements, including code requirements for compliance with the Americans with Disabilities Act and laundry facility requirements based on the number of units constructed.
- f. Conversion - In the event the housing units are converted to some other use, the units shall be subject to all applicable zoning ordinance standards existing at the time of conversion.
- g. The Planning Commission may authorize additional beds or units or a combination of group quarters and Farm Worker Dwelling Units through the conditional use permit process, based on the Commission's ability to making specific findings as outlined in Section 873.



#### 4. Reasonable Accommodations

This Section provides a procedure to request Reasonable Accommodation for persons with disabilities seeking equal access to housing under the California Fair Employment and Housing Act, the Federal Fair Housing Act, and the Americans with Disabilities Act (ADA) (also known as the Acts) in the application of zoning laws and other land use regulations, policies, and procedures in response to the needs of a disabled resident as defined in Section 803.14 (Specific Definitions – Group M).

##### a. Eligible Applicants

- (1) A request for Reasonable Accommodation may be made by any person with a disability, their representative, or any entity, when the application of a zoning law or other land use regulation, policy, or practice acts as a barrier to fair housing opportunities.
- (2) 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 this type of impairment, or anyone who has a record of this type of impairment.
- (3) This Section is intended to apply to those persons who are defined as disabled under the Acts.

##### b. Eligible Requests

- (1) A request for 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.
- (2) A request for Reasonable Accommodation shall comply with Subsection 855-O.4.c (Application Requirements) below.

##### c. Application Requirements

- (1) An application for Reasonable Accommodation shall include the information and materials specified in the most up-to-date Department handout for Reasonable Accommodation applications, together with the required fee in compliance with the Master Schedule of Fees. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection 855-O.4.g (Findings and Decision) below.
- (2) If the project involves both a request for Reasonable Accommodation and some other discretionary approval (e.g., Conditional Use Permit, Site Plan Review, etc.), the applicant shall file the information required by Subsection 4.c (Application

Requirements) above, together with the materials required for the other discretionary approval.

- (3) It is the responsibility of the applicant to provide evidence in support of the findings required by Section Subsection 855-O.4.g (Findings and Decision) below.

d. Review Authority

- (1) A request for Reasonable Accommodation shall be reviewed, and a decision shall be made, by the Director if no approval is sought other than the request for Reasonable Accommodation.
- (2) A request for Reasonable Accommodation submitted for concurrent review with another discretionary land use application shall be reviewed (and approved or denied) by the authority reviewing the discretionary land use application.

e. Notices

- (1) Within fifteen (15) days of the Director's acceptance of a request for Reasonable Accommodation, owners of property within a radius of three hundred (300) feet of the exterior boundaries of the affected property shall be notified in writing of the request. Notified persons shall be provided the opportunity to submit written comments within 15 days following the date of the notice. Such notices shall be by mail; the owner, for the purposes of such notices, shall be deemed to be the person or persons to whom the properties were assessed on the last assessment roll. The address to which such written notice shall be mailed shall be that shown upon such assessment roll.
- (2) When a Reasonable Accommodation Request is approved by the Director, written notice of the decision shall be mailed in accordance with Section 855-O.4.e.(1) above.

f. Review Procedures

- (1) The Director shall make a written decision and either approve, approve with modifications, or deny a request for Reasonable Accommodation in compliance with Section Subsection 855-O.4.g (Findings and Decision) below.
- (2) Other review authority. The written decision on whether to approve or deny the request for Reasonable Accommodation shall be made by the authority responsible for reviewing the discretionary land use application in compliance with the applicable review procedure for the discretionary review. The decision to approve or deny the request for Reasonable Accommodation shall be made in compliance with Section Subsection 855-O.4.g (Findings and Decision) below.

**g. Findings and Decision**

- (1) The written decision to approve or deny a request for Reasonable Accommodation that will be consistent with the Acts shall be based on consideration of all of the following factors:**
- (a) Whether the housing, which is the subject of the request, will be used by an individual(s) defined as disabled under the Acts;**
  - (b) Whether the request for Reasonable Accommodation is necessary to make specific housing available to an individual(s) with a disability under the Acts;**
  - (c) Whether the requested Reasonable Accommodation would impose an undue financial or administrative burden on the County;**
  - (d) Whether the requested Reasonable Accommodation would require a fundamental alteration in the nature of a County program or law, including, but not limited to, land use and zoning;**
  - (e) Potential impact on surrounding uses;**
  - (f) Physical attributes of the property and structures; and**
  - (g) Other Reasonable Accommodations that may provide an equivalent level of benefit.**

**h. Appeals**

- (1) No decision of the Director shall be effective until a period of fifteen (15) days has elapsed following the date of mailing written notice of his/her decision.**
- (2) During this period, the applicant or any notified property owners may file an appeal to the Commission. This appeal shall be filed in writing and set forth the reason for such appeal.**

**i. Acknowledgment**

**An approved Reasonable Accommodation shall not be valid until signed by the applicant, with the signature acknowledging the applicant's full understanding and agreement with all of the conditions, and agreement to waive any right to later challenge any conditions imposed as unfair, unnecessary, or unreasonable.**

**j. Rescission of Approval of Reasonable Accommodation**

- (1) An approval or conditional approval of an application made in compliance with this Section may be conditioned to provide for its rescission or automatic expiration under appropriate circumstances [e.g., the individual(s) defined as disabled under the Acts vacates the subject site, etc.], unless allowed to remain in compliance with Subsection 4.j.2 below.**
- (2) If the person(s) initially occupying a residence vacates, the Reasonable Accommodation shall remain in effect only if the review authority first determines that:**
  - (a) The modification is physically integrated into the residential structure and cannot easily be removed or altered to comply with this Zoning Ordinance; or**
  - (b) The accommodation is to be used by another qualifying individual(s) with a disability.**
- (3) The review authority may request the applicant or the successor(s)-in-interest to the property to provide documentation that subsequent occupants are qualifying persons with disabilities. Failure to provide the documentation within ten (10) days of the date of a request by the review authority shall constitute grounds for discontinuance by the County of a previously-approved Reasonable Accommodation.**

**k. Reapplication**

**No person, including the original applicant, shall re-apply for a similar Reasonable Accommodation on the same land, building or structure within a period of one (1) year from the date of the final decision on such previous request, unless such decision is a denial without prejudice.**

**(Added by Ord. T-            adopted            )**