

ORDINANCE NO. 2014 -002

**BOARD OF SUPERVISORS
COUNTY OF DEL NORTE, STATE OF CALIFORNIA**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF DEL NORTE,
CALIFORNIA, APPROVING A ZONE CODE AMENDMENT TO ADD AND ENACT CHAPTER
20.66 - REASONABLE ACCOMMODATION**

The Board of Supervisors of the County of Del Norte do ordain as follows:

SECTION 1. The Board of Supervisors of the County of Del Norte do ordain as follows:

- A. The federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act prohibit discrimination in housing against individuals with disabilities and require that counties take affirmative action to eliminate regulations and practices that deny housing opportunities to individuals with disabilities.
- B. Fair housing laws require that cities provide individuals with disabilities (or their representatives, or developers of housing for people with disabilities) flexibility in the application of land use and zoning regulations.
- C. Government Code section 65583 requires that the Housing Element address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement and development of housing for persons with disabilities.
- D. The proposed Reasonable Accommodation Ordinance is intended to fulfill the mandatory duty imposed on the County of Del Norte by Government Code Section 65583 by providing a process to provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for persons with disabilities.

SECTION 2. CODE AMENDMENT. Chapter 20.66 [Reasonable Accommodation] is hereby added to Chapter 20 Zoning of the Del Norte County Code to read as follows:

That Chapter 20.66 of the Del Norte County Code is added and enacted to read as follows:

20.66.010	Purpose and Intent
20.66.020	Definitions
20.66.030	Applicability.
20.66.040	Request for reasonable accommodation.
20.66.050	Review authority and procedure.
20.66.060	Required findings.
20.66.070	Effective date of order – appeal of decision.

20.66.010 Purpose and Intent

(a) The purpose and intent of this chapter is as follows:

(1) To provide individuals with disabilities reasonable accommodation in land use and zoning and building regulations, policies, practices, and procedures to provide equal opportunity to use and enjoy housing and facilitate the development of housing for individuals with disabilities pursuant to the federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act (hereafter "fair housing laws").

(2) To establish a procedure for making requests for reasonable accommodation in land use, zoning and building regulations, policies, practices and procedures of the County to comply fully with the intent and purpose of fair housing laws.

(3) To establish findings that ensure a requested accommodation, if granted, is necessary and reasonable, and would not require a fundamental alteration in the nature of the county's land use and zoning and building regulations, policies, practices and procedures.

20.66.020 Definitions

(a) For the purposes of this chapter, the terms used in this chapter relating to the provisions of reasonable accommodation are defined as follows:

(1) "Individual with a disability" means someone 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 with a record of such impairment. This section is intended to apply to those persons who are defined as disabled under the fair housing laws.

(2) "Reasonable accommodation" means, in the land and zoning context, providing individuals with disabilities or developers of housing for people with disabilities: (1) reasonable, necessary, or feasible flexibility in the application of land use and zoning and building regulations, policies, practices and procedures, or 2) the waiver of certain requirements when it is necessary to provide equal opportunity to use and enjoy housing and/or eliminate barriers to housing opportunities so long as the requested flexibility or waiver would not require a fundamental alteration in the nature of the county's land use and zoning and building regulations, policies, practices, procedures and the county's Local Coastal Program.

20.66.030 Applicability

(a) A request for reasonable accommodation may be made by any individual with a disability, his or her representative, or a developer or provider of housing for individuals with disabilities, when the application of a land use, zoning, or building regulation, policy, practice or procedure acts as a barrier to housing opportunities.

(b) A request for reasonable accommodation may include a modification or exception to the rules, standards, development and use of housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to the housing of their choice.

(c) 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 the obligations of an individual or a developer of housing for an individual with disabilities to comply with other applicable regulations not at issue in the requested accommodation.

(d) Request for reasonable accommodation shall be made in the manner prescribed by Section 20.66.040 of this chapter.

(e) If a request for reasonable accommodation is granted, the request shall be granted to an individual and shall not run with the land unless it is determined that (1) the modification is physically integrated into the residential structure and cannot easily be removed or altered to comply with applicable city or state codes or (2) the accommodation is to be used by another individual with a disability.

(f) Nothing in this ordinance shall require the county to waive or reduce development or building fees associated with the granting of a reasonable accommodation request.

20.66.040 Request for reasonable accommodation

(a) Application for a request for reasonable accommodation shall be made in writing on a form provided by the director of community development. The form shall be signed by the property owner or authorized agent. The application shall state fully the circumstances and conditions relied upon as grounds for the application and shall be accompanied by adequate plans and all other materials as specified by the director of community development. The application shall include the zoning, land use or building code provision, regulation, policy or practice from which modification or exception for reasonable accommodation is being requested including an explanation of how the application of the existing zoning, land use or building code provision, regulation, policy or practice would preclude the provision of reasonable accommodation.

(b) Proof of applicable disability shall be provided in the form of a note from a medical doctor or other third party professional documentation deemed acceptable to the director of community development.

(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 application for reasonable accommodation, the county will provide assistance to ensure the process is accessible.

20.66.050 Review authority and procedure

(a) A request for reasonable accommodation may be approved or conditionally approved by the director of community development and shall be processed independently of any other required development permits. However, approval of a reasonable accommodation may be conditioned upon approval of other related permits.

(b) The filing of an application for request for reasonable accommodation shall not require public notice.

(c) If necessary to reach a determination on the request for reasonable accommodation, the director of community development may request:

- (1) Further information from the applicant consistent with fair housing laws, specifying in detail the information that is required.
- (2) Information from other county departments and divisions or other agencies.

(d) Conditions may be imposed to ensure that any removable structures or physical design features that are constructed or installed in association with the reasonable accommodation be removed once those structures or physical design features are unnecessary to provide access to the dwelling unit for the current occupants.

20.66.060 Required findings

(a) The housing, which is the subject of the request for reasonable accommodation, will be occupied by an individual with a disability protected under fair housing laws;

(b) The requested accommodation is necessary to make housing available to an individual with a disability protected under the fair housing laws;

(c) The requested accommodation would not impose an undue financial or administrative burden on the county; and

(d) The requested accommodation would not require a fundamental alternation in the nature of the county's land use and zoning and building regulations, policies, practices, and procedures, and for housing the Coastal Zone, the county's Local Coastal Program.

20.66.070 Appeal of Determination

(a) The Applicant may appeal the decision of the director of community development to the planning commission, as appropriate. An appeal shall be filed in writing with the director of community development within ten (10) days after the decision of the director of community development; provided, however that the county may still revoke any erroneously made decision even after the expiration of the ten-day appeal period. The appeal shall specifically state the basis for the appeal.

(b) Nothing in this procedure shall require the director of community development to disclose any information provided to support the request for reasonable accommodation which, in the opinion of the county counsel, would violate State or Federal privacy rights of the individual with a disability.

(c) Nothing in the procedure shall preclude an aggrieved individual from seeking any other state or federal remedy available.

SECTION 3. CLASSIFICATION. This ordinance is considered of a general and permanent nature and is classified as a codified ordinance.

SECTION 4. SEVERABILITY. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the Board of Supervisors intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 5. CEQA DETERMINATION. The Board of Supervisors hereby determines that the adoption of this ordinance is exempt from review under the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines section 15061(b)(3) because it does not have the potential for causing significant effect on the environment;

SECTION 6. EFFECTIVE DATE. This ordinance shall become effective 30 days following publication of its adoption.

PASSED AND ADOPTED this 11th day of February, 2014 by the Board of Supervisors of the County of Del Norte by the following vote:

AYES: Supervisors Gitlin, Hemmingsen, Finigan, McClure and Sullivan.

NOES: None.

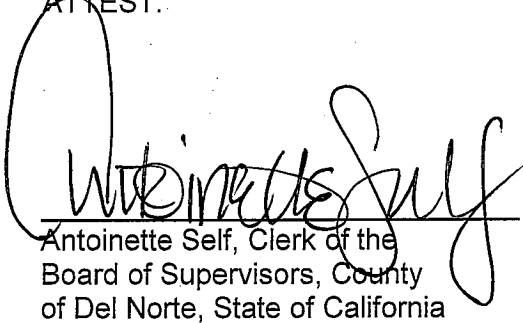
ABSENT: None.



DAVID FINIGAN, Chairman
Board of Supervisors

ATTEST:

APPROVED AS TO FORM:



Antoinette Self, Clerk of the
Board of Supervisors, County
of Del Norte, State of California



GRETCHEN STUHR, County Counsel

**DEL NORTE COUNTY
BOARD OF SUPERVISORS**

SUMMARY OF ADOPTED ORDINANCE 2014-002

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF DEL
NORTE, CALIFORNIA, APPROVING A ZONE CODE AMENDMENT TO ADD AND
ENACT CHAPTER 20.66 - REASONABLE ACCOMMODATION**

The following is a summary of an Ordinance adopted at the February 11, 2014 Board of Supervisors' meeting, Regular Session, by the following polled vote:

Motion: Move to approve

Move: Michael Sullivan

Second: Roger Gitlin

Vote Yea: 5 Michael Sullivan, Roger Gitlin, Gerry
Hemmingsen, David Finigan, Martha McClure

Vote Nay: 0 None

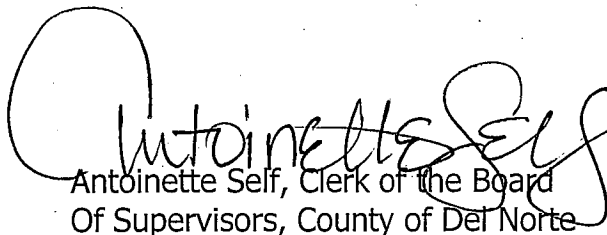
Vote Abstain: 0 None

This ordinance consists of six (6) sections and addresses approving a Zone Code Amendment to add and enact Chapter 20.66 – reasonable Accommodation.

A full copy of the ordinance is available for review in the Board of Supervisors office at 981 H Street, Suite 200, Crescent City, CA during normal business hours.

Dated: February 14, 2014

Publish: February 18, 2014


Antoinette Self, Clerk of the Board
Of Supervisors, County of Del Norte