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THE FOREGOING was passed and adopted by the following vote of the Board of Supervisors of the County of Fresno the 23rd day of August, 2022, to wit:

AYES: Supervisors Brandau, Magsig, Mendes, Pacheco, Quintero
NOES: None
ABSENT: None
ABSTAINED: None

Brian Pacheco, Chairman of the Board of Supervisors of the County of Fresno

ATTEST:
Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

By
Deputy

ATTACHMENT “A”

SECTION 855-O. PROPERTY DEVELOPMENT STANDARDS – SPECIAL STANDARDS OF PRACTICE AND REGULATIONS TO IMPLEMENT STATE LAW

4. Reasonable Accommodations

This subsection 855-O.4 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 person with a disability.

a. Definitions. For the purposes of this subsection 855-O.4. unless otherwise apparent from the context, certain words or phrases used in this subsection are defined as follows:

- (1) “Person with a disability” means: a person who has a physical or mental impairment that makes achievement of a major life activity difficult, as defined by state and federal disability laws; anyone who is regarded as having such impairment; or anyone with a record of such impairment.
- (2) “RA Request” means a request for a Reasonable Accommodation submitted by, or on behalf of, a person with a disability.
- (3) “Reasonable Accommodation” means providing persons with disabilities flexibility in the application of County programs, including County land-use, zoning and building regulations, policies, practices, and procedures, or waiving certain requirements when it is necessary to provide meaningful access to County programs or to eliminate barriers to housing opportunities for persons with disabilities.
- (4) “Review Authority” means the County employee who is the final authority on RA Requests as specified in subsection 4.b. below.

b. Review Authority. The Director of Public Works and Planning (Director) is the final authority on a RA Request relating to a requirement of the Zoning Ordinance. The Director may designate an employee in the Department as the Review Authority, to make a final determination on such RA Requests. Denial of an RA Request may be appealed by the requestor to the County Hearing Officer as provided by subsection 4.g. below. The hearing officer’s decision is final.

c. Applicability.

- (1) Eligibility.
 - (a) An RA Request may be made by any person with a disability, his or her representative, or a developer or provider of housing or other services for persons with disabilities, when the application of a County land-use or building regulation, policy, practice, or procedure, acts as a barrier to meaningful access to County programs or to fair-housing opportunities for persons with disabilities.
 - (b) The Acts afford no protection to persons with or without disabilities whose tenancy presents a direct threat to the persons or property of others. Determining

whether someone's tenancy poses such a direct threat must be made on an individualized basis, however, and may not be based on general assumptions or speculation about the nature of a disability.

- (2) **Eligible Request.** The subject matter of an RA Request may include a modification or exception to the practices, rules, or standards for a County program or for the development, siting, and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability with meaningful access to County programs and equal opportunity to housing of the person's choice.

d. **Application.**

- (1) **Requirements.** An RA Request may be initiated with the Department staff orally or in writing. The County will not require a requestor to use a particular form or medium to initiate an RA Request.
- (2) **Contents.** An RA Request need not take any particular form or include particular information. Individuals submitting an RA Request are encouraged to provide information that will assist the Review Authority in making its determination. This information includes:
 - (a) Information necessary to establish the individual has a disability, unless the disability of the individual requesting an accommodation is readily apparent,
 - (b) A description of the needed accommodation or modification, and
 - (c) A showing of the relationship between the disability and how the requested accommodation or modification is necessary to afford the person with a disability equal opportunity to use or enjoy a dwelling or housing opportunity.
- (3) **Administration.** The Department may create any forms, documents, online portals, telephone hotlines, or other methods to facilitate the submittal of RA Requests.
- (4) **Development Proposals.** If a project involves both a request for Reasonable Accommodation and some other discretionary or ministerial approval, a requestor may submit the RA request for separate processing.
- (5) **Initial Processing and Routing.** The law requires the Reasonable Accommodation process to be iterative and interactive. Department staff will assist requestors in completing their RA Request as needed to ensure that the process is accessible to persons with disabilities and will route all RA requests to the Review Authority.

e. **Review and Processing.**

- (1) **Application Review.** The Review Authority will approve, approve with conditions, or deny an RA Request in accordance with the required findings in subsection (4)(f) below.
- (2) **Decision.**

- (a) Request for Further Information. The Review Authority may request further information from the individual making an RA Request consistent with state and federal disability laws, including the Acts, and this subsection 855-O(4), specifying in detail the further information required.
- (b) Decision and Timing. The Review Authority will issue a written decision within 30 days of its receipt of a complete RA Request (including any additional information required under subsection 4.e.2.A. above). The written decision must: explain in detail the basis of the decision under the required findings in subsection 4.f., give notice of the applicant's right to appeal the decision, and be sent to the applicant by first-class mail with return receipt requested.
- (3) Compliance with other Regulations. An approved accommodation does not affect any person's obligations to comply with all other applicable regulations not at issue in the requested accommodation.
- (4) Confidentiality. All information concerning an RA Request will be kept confidential and will not be shared with other persons who are not directly involved in the interactive process or decision making about the RA Request unless disclosure is:
 - (a) Required to make or assess the decision to grant or deny the request for accommodation or modification.
 - (b) Required to administer or implement the requested accommodation or modification.
 - (c) Authorized by the individual with the disability in writing; or
 - (d) Required by law.
- (5) Finality. The decision of the Review Authority is final.
- f. Required Findings. Prior to approval of an RA Request, the following findings must be made consistent with the Acts:
 - (1) The housing which is the subject of the RA Request will be used by a person with disabilities protected under the Acts.
 - (2) As applicable, the requested accommodation is necessary to afford a person with disabilities protected under the Acts with equal opportunities to use or enjoy a dwelling or housing opportunity.
 - (3) The requested accommodation would not impose an undue financial or administrative burden on the County.
 - (4) The requested accommodation would not require a fundamental alteration in the nature of the County's policies, practices, or procedures, including consideration of alternatives which may provide an equal level of benefit.
 - (5) The requested accommodation will not result in a direct and significant threat to the health or safety of other persons or substantial physical damage to the property of others.

g. Appeals.

- (1) Notice of Appeal. The action of the Review Authority is final unless appealed within fifteen (15) business days of the date of mailing of the Review Authority's written decision. The notice of appeal must be in writing.
- (2) Appeal Procedure. The Review Authority will schedule the appeal to be heard by the County Hearing Officer (established by section 2.81.010 of the Fresno County Code of Ordinances) within thirty (30) calendar days from the date that the Review Authority receives the notice of appeal. The appeal hearing shall be confidential and be held in a manner with the Acts. Where the Acts are inconsistent with the procedural and evidentiary requirements of Chapter 2.81 of the Fresno County Code of Ordinances, the Hearing Officer shall comply with the requirements of the Acts. The decision of the Hearing Officer is final and shall be mailed by first-class mail to the applicant with return receipt requested.
- (3) Assistance with Appeal. Upon request, Department staff will provide assistance to a Requestor needing assistance in filing an appeal to ensure that the appeals process is accessible to persons with disabilities. However, Department staff is prohibited from providing legal advice or legal representation.

h. Rescission and Modification.

- (1) Modifications Initiated by the Applicant. The individual(s) making the RA Request may apply for a modification to an accommodation. Any proposed modification will be treated by the Department as a new RA Request and will be subject to the procedures set forth in subsections 4.a. through 4.g. above.
- (2) Rescission or Modification Initiated by the County.
 - (a) An approval or conditional approval of an RA Request 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 or the disability is temporary), unless allowed to remain under subsection 4.h.2.B. below.
 - (b) If the person(s) initially occupying the housing which is the subject of the RA Request vacates, the accommodation shall remain in effect only if the Review Authority first determines that:
 - i. The modification is physically integrated into the housing and cannot easily be removed or altered to comply with this Zoning Ordinance; or
 - ii. The accommodation is to be used by another qualifying person with a disability.
 - (c) Where an accommodation is to be used by another qualifying person with a disability, the Review Authority may request the individual making the RA Request, the successor-in-interest to the property, or the then-current property owner as appropriate to provide information allowed under the Acts that subsequent occupants are qualifying persons with disabilities.

(d) The Review Authority may make changes or revoke the approval of an RA Request when conditions of approval are violated, it is necessary to resolve a direct and significant threat to the health or safety of other persons or substantial physical damage to the property of others, or when the individual(s) making the RA Request provided incorrect, false, or misleading information.

(e) The Review Authority will notify the applicant of the change or revocation of the approval by first-class mail with return receipt requested no later than the next business day after the Review Authority's decision.

Added by Ord. T-803-371 adopted 12-8-15 Amended by Ord. T-094-380 adopted 11-24-20.
Repealed and Replaced by Ord. adopted - -20).

Section 832 "C-P" - ADMINISTRATIVE AND PROFESSIONAL OFFICE DISTRICT

Section 832.1. titled "Uses Permitted" subsection 832.1.A. is amended to add subsection "3." to allow Supportive Housing as a permitted use as follows:

(3) Supportive Housing, as defined in Government Code Section 65650

(Amended by Ord. adopted - -20)

Section 836 "C-4" - CENTRAL TRADING DISTRICT

Section 836.1 titled "Uses Permitted", is amended to add subsection "36." to allow Supporting Housing as a permitted use as follows:

36. Supportive Housing, as defined in Government Code Section 65650

(Added by Ord. adopted - -20)

Section 827 "R-2" AND "R-2-A" - LOW DENSITY MULTIPLE FAMILY RESIDENTIAL DISTRICTS

Section 827.1 titled "Uses Permitted" is amended to add subsection "E." to allow Supporting Housing as a permitted use as follows:

E. Supportive Housing, as defined in Government Code Section 65650.

(Amended by Ord. adopted - -20)

Section 828 "R-3" AND "R-3-A" - MEDIUM DENSITY MULTIPLE FAMILY RESIDENTIAL DISTRICTS

Section 828.1 titled "Uses Permitted" is amended to add subsection "J" to allow Supporting Housing as a permitted uses as follows:

J. Supportive Housing, as defined in Government Code Section 65650.

(Amended by Ord. adopted - -20)

Section 829 "R-4" HIGH DENSITY MULTIPLE FAMILY RESIDENTIAL DISTRICTS

Section 829.1 titled "Uses Permitted" is amended to add subsection "G" to allow Supporting Housing as a permitted uses as follows:

G. Supportive Housing, as defined in Government Code Section 65650.

(Amended by Ord. adopted - - 20)

SECTION 855-P. PROPERTY DEVELOPMENT STANDARDS – SPECIAL STANDARDS FOR DENSITY BONUS TO IMPLEMENT AFFORDABLE HOUSING INCENTIVES

Section 855-P.2.a.1. is amended as shown in the table below.

BONUS FOR LOW-INCOME HOUSEHOLDS	
Percentage of Low-Income Units Proposed	Percentage of Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5
20	35
21	38.75
22	42.5
23	46.25
24	50

(Amended by Ord. adopted - - 20)

Section 855-P.2.a.2. is amended as shown in the table below.

BONUS FOR VERY LOW-INCOME HOUSEHOLDS

Percentage of Very- Low Income Units Proposed	Percentage of Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

(Amended by Ord. _____ adopted - -20__)

Section 855-P.2.a.4. is amended as shown in the table below.

BONUS FOR MODERATE INCOME HOUSEHOLDS

Percentage of Moderate- Income Units Proposed	Percentage of Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31

Percentage of Moderate-Income Units Proposed	Percentage of Density Bonus
37	32
38	33
39	34
40	35
41	38.7
42	42.5
43	46.25
44	50

(Amended by Ord. adopted - -20)

Section 855-P.3.entitled “Allowed Incentives or Concessions” subsection a. (2) is amended as follows:

(Amended by Ord. adopted - -20)

- (1) Section 855-P.3.entitled “Allowed Incentives or Concessions” subsection (b) entitled “Number of incentives” is amended as follows:
- (2) Two incentives or concessions. Two incentives or concessions for a project that includes at least 17 percent of the total units for lower income households, at least 10 percent for very low-income households, or at least 20 percent for persons and families of moderate income in a common interest development.
- (3) Three incentives or concessions. Three incentives or concessions for a project that includes at least 24 percent of the total units for lower income households, at least 15 percent for very low-income households, or at least 30 percent for persons and families of moderate income in a common interest development.
- (4) Four incentives or concessions. Four incentives or concessions for a project that 100 percent of all units are for lower income household or when up to 20 percent of units are for moderate income. If the project is located one-half mile of a major transit stop, the application shall also receive a height increase of up to three additional stories or 33 feet.
- (5) One incentive or concession. One incentive or concession for projects that include twenty percent of total units for lower income students with the density bonus shall be 35 percent of the student housing units. The term “unit” means one rental bed and its pro rata share of associated common area facilities. The units shall be subject to a recorded affordability restriction of 55 years.
- (6) A density bonus equal to twenty percent of the total number of units. A density bonus equal to twenty percent of the total number of units when 10 percent of the total dwelling units are for transitional youth, disabled veterans, or homeless persons. The units shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low-income units.

(Amended by Ord. adopted - -20)

Section 855-P.4. entitled “Parking Requirements in Density Bonus Projects” subsection b. entitled “Number of parking spaces required” subsection (1) (b) is amended as follows:

(b) Two to three bedrooms: One and one-half onsite parking spaces.

(Amended by Ord. adopted - -20)

Section 855-P.4. entitled “Parking Requirements in Density Bonus Projects” subsection (b) entitled “Number of parking spaces required” subsection (b) (4) entitled “Development in Proximity to Major Transit Stop” is amended as follows:

(4) Developments in Proximity to Major Transit Stop. If a development includes at least 20 percent low-income units for housing development that meets the criteria of 65915 (b)(1)(A) of the Government Code, or at least 11 percent very low income units for housing development meeting the criteria of section 65915 (b), is located within one-half mile of a major transit stop, and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer, the county shall not impose a vehicular parking ratio, inclusive of parking for persons with a disability and guests, that exceeds 0.5 space per unit. If a development includes at least 40 percent moderate moderate-income units for housing developments meeting the criteria of subdivision (b)(1)(D), is located within one-half mile of a major transit stop, as defined in Section 2115521155(b) of the Public Resources Code, and the residents of the development have unobstructed access to the major transit stop for the development then, upon the request of the developer, the county shall not impose a vehicular parking ration, inclusive of parking for persons with a disability and guests, that exceeds 0.5 spaces per bedroom.

(Amended by Ord. adopted - -20)

(5) Exclusive Rental Units Development. If a development consists solely of rental units, exclusive of a manager’s unit or units, with an affordable housing cost to lower income families, as provided in Section 50025.5 of the Health and safety Code, then, upon the request of the developer, the County shall not impose a vehicular parking standards, if the development meets any of the following criteria:

(a) If the development is located within one-half mile of a major transit stop, and there is unobstructed access to the major transit stop from the development.

(b) If the development is a for-rent housing development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code, and the development has either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(c) If the development consists solely of rental units, exclusive of a manager’s unit or units, with an affordable cost to low-income families, as defined in Section 50052.5 of the Health and Safety Code, and the development is either a special needs housing development, as defined in Section 51312

of the Health and Safety Code, or a supportive housing development, as defined in Section 50675.14 of the Health and Safety Code. A development that is a special needs housing development, shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(Amended by Ord. adopted - -20)