ORDINANCE 621-AC

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEEDLES, CALIFORNIA, AMENDNG NEEDLES MUNICIPAL CODE (NMC) ARTICLE IV SECTION 94 ADDING "REASONABLE ACCOMMODATION FOR PERSONS WITH DISABILITIES"

WHEREAS, it is the intent of the City to implement federal and state housing laws and the policies and programs contained in the City of Needles' General Plan, including the Housing Element; and

WHEREAS, State Housing Element law (GC 65583(c)(3) and (5)) requires that cities remove governmental constraints to the development of housing and promote housing opportunities for persons with disabilities; and

WHEREAS, Federal and State fair housing laws, including the Federal Fair Housing Amendments Act of 1988, and the California Fair Employment and Housing Act, prohibit discrimination against individuals with disabilities and provide equal opportunity to use and enjoy a dwelling.

WHEREAS, a public hearing notice for the Needles Planning Commission meeting was published in the Needles Desert Star on Wednesday, June 12, 2019 and the San Bernardino Sun on Sunday, June 9, 2019; and

WHEREAS, on June 19, 2019, the Needles Planning Commission held a duly noticed and advertised public hearing to receive oral and written testimony relative to **RESOLUTION 06-19-2019-5** PC recommending City Council approval on the Needles Municipal Code (NMC) change; and

WHEREAS, a public hearing notice for the Needles Planning Commission meeting was published in the Needles Desert Star on Wednesday, June 12, 2019 and the San Bernardino Sun on Sunday, June 9, 2019; and posted in two conspicuous locations; and

WHEREAS, on July 9, 2019, the Needles City Council held a duly noticed and advertised public hearing to receive oral and written testimony relative to the amendment to the Needles Municipal Code (NMC); and

WHEREAS, the Needles City Council has sufficiently considered all testimony and any documentary evidence presented to them in order to make the following determination:

SECTION 1. The City Council HEREBY FINDS AND DETERMINES that this activity is not subject to the California Environmental Quality Act ("CEQA") pursuant to CEQA Section §§ 15060 (c)(2), the activity will not result in a direct or reasonable foreseeable indirect physical change in the environment

SECTION 2. The City Council HEREBY FINDS AND DETERMINES that facts do exist to approve an amendment to the Needles Municipal Code (NMC), attached as "Exhibit "A".

SECTION 3. The City Council HEREBY APPROVES Ordinance 621-AC for an amendment to the Needles Municipal Code (NMC) attached as Exhibit "A".

8-13-19 #14

SECTION 4. This action shall become final and effective 30 days after this decision by the City Council as provided by the Needles City Code.

NOW, THEREFORE, BE IT ORDAINED that the City Council of the City of Needles, California, approves an amendment to the City Code.

INTRODUCED AND READ for the first time and ordered posted at a regular meeting of the City Council of the City of Needles, California, held on the 9th day of July, 2019, by the following roll call vote:

AYES: Councilmembers Gudmundson, Terral, Paget, Belt and Longacre
NOES None
ABSENT Councilmember Hazlewood
ABSTAIN None

Mayor

Attest: Dale Jones
City Clerk

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Needles, California, held on the 13th day of August, 2019.

AYES:
NOES:
ABSENT:
ABSTAIN:

Mayor

(Seal)

Attest:
City Clerk

Approved as to form:

City Attorney

EXHIBIT "A"

REASONABLE ACCOMMODATION OF

PERSONS WITH DISABILITIES

Amend Article IV Section 94 as follows:

Add:

(e) **Reasonable Accommodation for Residential Uses.** A request for reasonable accommodation can be made by any individual with a disability, his or her representative, or a developer or provider of housing for an individual with a disability, when the application of a land use or zoning regulation, or land use, zoning, or building policy, practice or procedure acts as a barrier to fair housing.

(1) **Definitions.** Article II Section 92 is hereby amended to add the following definitions:

Fair Housing Laws: The Federal Fair Housing Act (42 U.S.C. § 3601 et. Seq.), the California Fair Employment and Housing Act (Government Code §12900 et seq.), and the California Disabled Persons Act (Civil Code § 54 et. Seq.).

Individual with a Disability: A person who has a medical, physical, or mental conditions that limits a major life activity, as those terms are defined in California Government Code section 12926

Reasonable Accommodation: A modification in the application of land use or zoning regulations or in the application of land use, zoning, or building policies, procedures, or practices when necessary to eliminate barriers to housing opportunities; which does not impose undue financial or administrative burdens on the City or require a fundamental or substantial alteration of the City's regulations, policies, procedures or practices.

(2) **Submittal requirements for reasonable accommodations.**

Each application for a Reasonable Accommodation shall be accompanied by the site plan information required by Article IV Section 94(e)(2)(a) through (n).

Site plans shall be drawn to scale of an adequate size and shall indicate clearly and with full dimensions the following data where applicable:

(a) Exterior boundary lines of the property indicating easements, dimensions and lot size.

(b) All adjacent streets or rights-of-way, including

bicycle and/or hiking trails.

(c) Location, elevations, size, height, dimensions, materials, colors, and proposed use of all buildings and structures (including walls, fences, signs, lighting and hooding devices) existing and intended to remain on the site.

(d) Setback information for all buildings existing and proposed at the site.

(e) Distances between all structures and between all property lines or easements and structures.

(f) Any nearby buildings which are relevant to this application.

(g) Any existing significant natural features such as rock outcroppings, highly protected trees, creeks, knolls and ridgelines.

(h) Location, number of spaces, and dimensions of off-street parking spaces, loading docks, and maneuvering areas; indicate internal circulation.

(h) Pedestrian, vehicular and service points of ingress and egress; driveway widths, and distances between driveways.

(i) Proposed landscaping; include quantity, location, varieties and container size.

(j) Proposed grading plan (for sites having over five (5) foot grade differential), showing existing and proposed contours, and the direction and path of drainage on, through and off the site; indicate any proposed drainage channels or facilities.

(k) Required and existing street dedications and improvements such as sidewalks, curbing and pavement. Indicate widths, radii of curves, street grades and whether streets are public or private.

(l) Other such data as may be required to permit the Planning Commission or the Zoning Administrator, as the case may be, to make the required findings for approval of the specific type of application.

(m) Scale shown as "Scale: 1 inch =feet" and north arrow.

(n) Vicinity map indicating nearby cross streets in relation to site (need not be to scale).

(o) Whether the proposed site is in a FEMA flood plain

(3) **Reasonable Accommodation applications**. The purpose of granting an application for Reasonable Accommodation is to provide an individual with a disability, his or her representative, or a developer or provider of housing for an individual with a disability, a modification with respect to the application of land use, or zoning regulations, and in the application of land use, zoning, or building policies, practices or procedures when those regulations, policies and procedures act as a barrier to fair housing.

An application for Reasonable Accommodation may be filed with the Planning Department as provided in Article IV Section 94(e)(3). The application shall be accompanied by the following information:

(a) The name, address and telephone number of the applicant;

(b) The name, address, and telephone number of the owner of the property for which the reasonable accommodation request is being made;

(c) The current use of the property for which the reasonable accommodation request is being made;

(d) If the applicant is someone other than the property owner, a letter of agency or authorization signed by the property owner consenting to the application being made;

(e) The basis for the claim that the individual to be reasonably accommodated is an Individual with a Disability under the Fair Housing Laws;

(f) The land use or zoning regulation, or land use, zoning, or building policy, practice or procedure for which reasonable accommodation is being requested;

(g) The type of accommodation sought;

(h) The reason(s) why the accommodation is necessary

for the needs of the disabled person. Where appropriate, include a summary of any potential means and alternatives considered in evaluating the need for the accommodation;

(i) Copies of memoranda, correspondence, pictures, plans or background information reasonably necessary to reach a decision regarding the need for the accommodation;

(j) Other supportive information deemed necessary by the department to facilitate proper consideration of the request, consistent with fair housing laws.

(k) Completion of a CEQA Checklist if proposed site is vacant land

(l) There is no fee imposed on the filing or processing of the application for Reasonable Accommodation.

(4) Findings. The reviewing authority shall approve the application, with or without conditions, unless it determines on the basis of substantial evidence that one or more of the following findings cannot be made:

(a) The accommodation is requested by or on behalf of an individual with a disability protected under the fair housing laws.

(b) The housing, which is subject to the requested accommodation, will be used by an individual with a disability protected under fair housing laws.

(c) The requested accommodation is necessary to provide an individual with a disability an equal opportunity to use and enjoy a dwelling.

(d) The requested accommodation will not impose an undue financial or administrative burden on the City.

(e) The requested accommodation would not require a fundamental alteration in the nature of a City program or law, including land use and zoning.

(5) ***Other Discretionary approvals.*** If the project requires other discretionary approval (such as a Conditional Use Permit or

Variance) independent of the reasonable accommodation request, then the reasonable accommodation application will be decided prior to the other applications. Such decisions shall not to be reconsidered as part of the subsequent approvals, but shall be regarded as independent entitlements.

(6) **Decisions.** The Zoning Administrator shall, within 30 days of determining the application complete, approve, approve with conditions, or deny the application based on the findings set forth in Article IV Section 94(e)(4), and may impose such conditions as it deems necessary to ensure the accommodation will comply with the findings required in Article IV Section 94(e)(4) and fair housing laws. As part of consideration of a request for a reasonable accommodation related to construction of new dwelling or dwellings, the Zoning Administrator may consult with the Design Review Committee regarding the requested accommodation and any options that may result in a reasonable accommodation. While any request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.

(7) **Appeals.** The decision of the Zoning Administrator may be appealed in accordance with Article XVIII "Enforcement and Review" Appeals are subject to payment of the fee imposed on appeals in the City's Master Fee Schedule.

(8) **Non-conforming Status.** All improvements constructed under the auspices of this chapter shall be removed upon the vacation of the unit by the person to whom the reasonable accommodation was granted unless the Development Department Director, Zoning Administrator, Building Official, or other discretionary reviewing authority, as applicable, makes a determination as follows:

(a) The unit has been reoccupied by a qualified person or such improvements provide benefit for future occupancy by a qualified person; or

(b) The removal of the improvement is not readily achievable without making significant structural changes that would impact the safety and soundness of the structure, as determined solely by the Building Official, or such costs of removal equal or exceed 25 percent of the market value of the structure.

9) **Confidentiality.** Medical information provided to the City related to the person for whom a reasonable accommodation is being requested shall be retained in a manner so as to respect

the privacy rights of the applicant to the extent feasible, shall be kept confidential and shall not be made available to the public, pursuant to state and federal law.

10) **Urgent, Temporary and Unforeseen Need.** Upon receipt of the application required by **Article IV Section 94(e)(3)**, and without the right of appeal provided by **Article IV Section 94(e)(7)**, upon a showing of an urgent, temporary and unforeseen need made by or on behalf of an Individual with a Disability, the Zoning Administrator shall approve as a Temporary Reasonable Accommodation temporary ramps and temporary and easily remediated alterations to a building that are not designed or intended nor allowed to remain for more than 90 days following such approval during a period of temporary disability (90 days maximum) or during a period during which an application for Reasonable Accommodation has been made and has not been acted upon with finality. Any approved Temporary Reasonable Accommodation shall be removed within the period of time established for such removal by the Zoning Administrator at the time of approval.