

CITY OF WALNUT CREEK
GUIDELINES FOR REQUESTING DETERMINATION OF UNREASONABLE HARDSHIP FOR BUILDING CODE DISABLED ACCESS REGULATIONS

Types of Projects Which May Apply for Exceptions to the Standards

Type I - Projects with Project Construction Cost Less than Valuation Threshold. An exception may be approved for alterations, structural repairs or additions when the project construction cost is below the Valuation Threshold of \$170,466., the Building Official finds that compliance with the Code creates an unreasonable hardship, and the cost of providing complete access exceeds 20% of the cost of the project without access features. In this case, a hardship can be determined for a primary entrance to the building or facility including the path of travel to the public way, toilet and bathing facilities serving the area, drinking fountains serving the area, public telephones serving the area, signs and parking. The area of remodel is not exempted from full compliance. When the project construction cost is greater than the valuation threshold or the cost to provide complete access does not exceed 20% of the project cost, a finding of unreasonable hardship cannot be made and full compliance is required. Up to 20% of the project cost must be expended towards providing access in accordance with the following prioritized order: 1) A primary entrance to the building or facility including the path of travel to the public way, 2) toilet and bathing facilities serving the area, 3) drinking fountains serving the area, 4) public telephones serving the area, 5) signs and 6) parking on site.

Type II - Projects Meeting Code-Specified Equivalent Facilitation Provisions. Regardless of the Project Construction Cost, the Code has exceptions that allow for Code-specified equivalent facilitation provisions to be used in lieu of full compliance when the Building Official determines that an unreasonable hardship exists and the Code-specified equivalent facilitation provisions are incorporated into the Proposed Construction Plans. Type III - Projects Meeting Code-Unspecified Equivalent Facilitation Provisions. Regardless of the Project Construction Cost, the Code provides exceptions that allow for Code-unspecified equivalent facilitation provisions to be used in lieu of providing full compliance upon a finding of an unreasonable hardship by the Building Official. These projects must be reviewed by the Building Official to determine if they provide equivalent facilitation or not. These projects are reviewed on a case-by-case basis and may require specific interpretation of equivalent facilitation by the Office of the State Architect, Access Compliance Unit.

Type IV - Projects meeting specific exception requirements without need for equivalent facilitation or unreasonable hardship determination.

Information to Be Submitted by Applicant

Applicant shall submit one of the following two applications:

1. If the Project is of Type I, the applicant must complete and submit FORM A, APPLICATION FOR UNREASONABLE HARDSHIP BASED UPON CONSTRUCTION COST LESS THAN VALUATION THRESHOLD. In addition, the following information must be submitted with the application:
 - a. Project Construction Cost Estimate
 - b. Proposed Compliance Plans & Proposed Compliance Cost Estimate
2. If the Project is of Type II, III OR IV, the applicant must complete and submit FORM B, APPLICATION FOR GRANTING OF EXCEPTION(S) TO DISABLED ACCESS REGULATIONS. Where the exception requires evaluation of an unreasonable hardship case, then the following additional information must be submitted with the application:
 - a. Project Construction Cost Estimate
 - b. Full Compliance Plans & Full Compliance Cost Estimate
 - c. Proposed Compliance Plans & Proposed Compliance Cost Estimate

Please refer to the definitions on the back side.

Definitions

Full Compliance Cost Estimate

Cost estimate for providing full access compliance assuming that an unreasonable hardship was not requested or granted by the Building Official. This cost estimate shall be based on the Full Compliance Plans. The cost estimate must be prepared by a licensed contractor or an architect or engineer in the form of an itemized list. The itemized list must be sufficiently detailed to allow the Building Official to see clearly the cost breakdown and perform cost comparisons between the Full Compliance and Proposed Compliance Cost Estimates.

Full Compliance Plans

Construction plans which show fully complying access in all respects. The plans must clearly distinguish between existing conditions (which already meet the present regulations) and work that must be completed to meet the present regulations using the least expensive means of compliance. These plans form the basis for the Full Compliance Cost Estimate.

Project Construction Cost

The cost of the job without providing the accessibility features. This must be prepared by a licensed contractor or an architect or engineer. A Contractor's, Architect's or Engineer's detailed cost estimate of all construction contemplated without any of the accessibility features. This will be compared against the current valuation threshold.

Proposed Compliance Cost Estimate

Cost estimate for providing the proposed scope of work assuming an unreasonable hardship is granted by the Building Official. This cost estimate shall be based on the Proposed Compliance Plans. The cost estimate must be prepared by a licensed contractor, architect, or engineer in the form of an itemized list. The itemized list must be sufficiently detailed to allow the Building Official to see clearly the cost breakdown and perform cost comparisons between the Full Compliance and Proposed Compliance Cost Estimates.

Proposed Compliance Plans

Construction plans which show the proposed scope of work assuming a unreasonable hardship is granted by the building official.

The Code

Those sections of the California Building Code specifically adopted by the Office of the State Architect Access Compliance Unit.

Unreasonable Hardship

An unreasonable hardship exists when the Building Official finds that compliance with the building standard would make the specific work of the project affected by the building standards unfeasible, based upon an overall evaluation of the following factors:

1. The cost of all construction contemplated.
2. The cost of providing access.
3. The impact of the proposed improvements on the financial feasibility of the project.
4. The nature of the accessibility that would be gained or lost.
5. The nature of the use of the facility under construction and its availability to handicapped persons.

Valuation Threshold

The current Valuation Threshold is based on the January 2021 edition of the Engineering News Records' US20 Cities average construction cost index: $(11627.94/3372.02) \times \$50,000 = \$172,418$.

FORM A
 CITY OF WALNUT CREEK, COMMUNITY DEVELOPMENT DEPARTMENT
 APPLICATION FOR UNREASONABLE HARDSHIP DETERMINATION
 BASED UPON PROJECT CONSTRUCTION COST LESS THAN VALUATION THRESHOLD

PROJECT INFORMATION

Name _____ Building Permit Application No. _____
 Address _____

APPLICANT INFORMATION

Name _____ Phone _____
 Address _____ Fax _____
 City/State/Zip _____

COST ESTIMATES

Total PROJECT CONSTRUCTION COST (w/o providing the accessibility features).....\$ _____

Provide cost estimates for providing the following elements:

	Cost Estimate	% of Project Const. Cost	Cumulative % of Const. Cost
1. An accessible entrance	\$ _____	_____ %	_____ %
2. An accessible route to the altered area	\$ _____	_____ %	_____ %
3. At least one accessible restroom for each sex	\$ _____	_____ %	_____ %
4. Accessible telephones	\$ _____	_____ %	_____ %
5. Accessible drinking fountains	\$ _____	_____ %	_____ %
6. Additional accessible elements such as parking, storage and alarms	\$ _____	_____ %	_____ %

A minimum of 20% of the total PROJECT CONSTRUCTION COST, as written above, must be spent on the above access features. If the cost of providing all of the above access features exceeds 20%, then only those accessibility features associated with a cumulative percentage greater than 20% of the PROJECT CONSTRUCTION COST may be excluded from the project. Priority shall be given to these access features in the order shown above.

The accessibility features to be exempted under this finding of unreasonable hardship are the following checked-off items which exceed 20% of the Project Construction Cost, as noted above:

- An accessible entrance
- An accessible route to the altered area
- At least one accessible restroom for each sex
- Accessible telephones
- Accessible drinking fountains
- Additional accessible elements such as parking, storage and alarms

REQUIRED SIGNATURES

Applicant _____ Date _____

Building Owner _____ Date _____

Approved By:

Building Official _____ Date _____

FORM B
 CITY OF WALNUT CREEK, COMMUNITY DEVELOPMENT DEPARTMENT
 APPLICATION FOR GRANTING OF EXCEPTION(S) TO DISABLED ACCESS REGULATIONS

PROJECT INFORMATION

Name _____ Building Permit Application No. _____

Address _____

APPLICANT INFORMATION

Name _____ Phone _____

Address _____ Fax _____

City/State/Zip _____

EXCEPTION(S) TO DISABLED ACCESS REGULATIONS FOR WHICH THIS APPLICATION APPLIES		REGULATIONS FOR WHICH THIS APPLICATION APPLIES					
Building Code Section	Exception #	Requires Determination of Unreasonable Hardship?		Requires Equivalent Code-Specified		Facilitation? Non-Code Specified	
		Yes	No	Yes	No	Yes	No
_____	_____	Yes	No	Yes	No	Yes	No
_____	_____	Yes	No	Yes	No	Yes	No
_____	_____	Yes	No	Yes	No	Yes	No
_____	_____	Yes	No	Yes	No	Yes	No

UNREASONABLE HARDSHIP DISCUSSION

1. Total Cost of Providing Disabled Access (attach itemized cost estimate) \$ _____

2. Total PROJECT CONSTRUCTION COST (w/o providing the accessibility features)\$ _____

3. Describe the impact of the proposed improvements on the financial feasibility of project:

4. Describe the nature of the access features that would be gained or lost:

5a. What is the nature of the use of the facility under construction?

5b. What is its availability to persons with disabilities:

NON-CODE SPECIFIED EQUIVALENT FACILITATION TO BE PROVIDED

Describe in detail the means by which non-code specified equivalent facilitation will be provided:

REQUIRED SIGNATURES

Requestor:

Applicant _____ Date _____

Building Owner _____ Date _____

Approved by:

Building Official _____ Date _____

Conditions of Approval:
