

ORDINANCE N^o-16-123

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT, COUNTY OF YAVAPAI, ARIZONA, DECLARING THE DOCUMENT ENTITLED "ARIZONANS WITH DISABILITIES ACT" AS A PUBLIC RECORD; ADOPTING THE "ARIZONANS WITH DISABILITIES ACT" BY REFERENCE; AMENDING THE TOWN OF DEWEY-HUMBOLDT, ARIZONA CODE OF ORDINANCES, TITLE XV LAND USAGE, CHAPTER 150 BUILDING CODES, SUBCHAPTER CODES ADOPTED, § 150.011 EFFECTIVE DATE RELATED TO ADOPTING "THE ARIZONANS WITH DISABILITIES ACT"; AND CHAPTER 153 ZONING REGULATIONS, SUBCHAPTER GENERAL PROVISIONS, BY AMENDING § 153.005 DEFINITIONS TO ADD DEFINITIONS OF "HANDICAPPED PERSON" AND "REASONABLE ACCOMMODATION"; AND AMENDING SUBCHAPTER ADMINISTRATION, ENFORCEMENT BY ADDING NEW § 153.024 REASONABLE ACCOMMODATIONS RELATED TO PROVIDING A PROCEDURE FOR GRANTING REASONABLE ACCOMMODATIONS TO HANDICAPPED PERSONS PURSUANT TO FEDERAL AND STATE FAIR HOUSING AND DISABILITIES LAWS; PROVIDING FOR A SAVINGS CLAUSE; AND PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES

Whereas, that certain document entitled "Arizonans with Disabilities Act", three copies of which are on file in the office of the Town Clerk, is hereby declared to be a public record and said copies are hereby ordered to remain on file with the Town Clerk; and

Whereas, pursuant to federal and state fair housing laws and the Americans with Disabilities Act, the Town may not make zoning and land use decisions or implement land use policies that exclude or otherwise discriminate against individuals with disabilities; and

Whereas, the Town is required to provide reasonable accommodations to persons with handicaps to enable them to enjoy the same opportunities for housing as other non-affected individuals; and

Whereas, the Town of Dewey-Humboldt Town Council desires to establish a procedure to facilitate responses to requests by persons in need of reasonable accommodations;

Now, Therefore, Be it ordained by the Mayor and Common Council of the Town of Dewey-Humboldt, Arizona, as follows:

Section I. In General

The Town of Dewey-Humboldt, Arizona Code of Ordinances, Title XV Land Usage, Chapter 150 Building Codes, Subchapter Codes Adopted, Section 150.011 Effective Date is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

150.11 ~~Effective Date~~ADOPTION OF ARIZONANS WITH DISABILITIES ACT AND IMPLEMENTING RULES.

~~The effective date for this subchapter is July 1, 2007.~~ THAT CERTAIN DOCUMENT, THREE COPIES EACH OF WHICH ARE ON FILE IN THE OFFICE OF THE TOWN CLERK BEING MARKED AND DESIGNATED AS THE "ARIZONANS WITH DISABILITIES ACT" (ARIZONA REVISED STATUTES, TITLE 41, CHAPTER 9, ARTICLE 8), AND THE "ARIZONANS WITH DISABILITIES ACT IMPLEMENTING RULES" (ARIZONA ADMINISTRATIVE CODE, TITLE 10, CHAPTER 3, ARTICLE 4), WHICH INCORPORATES THE FEDERAL "2010 ADA STANDARDS FOR ACCESSIBLE DESIGN", IS HEREBY REFERRED TO, ADOPTED AND MADE A PART HEREOF AS THOUGH FULLY SET FORTH IN THIS SECTION, AS THE ARIZONANS WITH DISABILILTIES ACT OF THE TOWN, AND SHALL APPLY TO NEW CONSTRUCTION AND ALTERATIONS AND ARE NOT REQUIRED IN BUILDINGS OR PORTIONS OF EXISTING BUILDINGS THAT DO NOT MEET THE STNDARDS AND SPECIFICATIONS.

The Town of Dewey-Humboldt, Arizona Code of Ordinances, Title XV Land Usage, Chapter 153 Zoning Regulations, Subchapter General Provisions, Section 153.005 Definitions is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

§ 153.005 Definitions

* * *

HANDICAPPED PERSON. A HANDICAPPED PERSON IS A "PERSON WITH A DISABILITY", AS THAT TERM IS DEFINED IN THE AMERICANS WITH DISABILITIES ACT AND INCLUDES (1) INDIVIDUALS WITH A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE MAJOR LIFE ACTIVITIES; (2) INDIVIDUALS WHO ARE REGARDED AS HAVING SUCH AN IMPAIRMENT; AND (3) INDIVIDUALS WITH A RECORD OF SUCH AN IMPAIRMENT.

* * *

REASONABLE ACCOMMODATION. A REASONABLE ACCOMMODATION IS A CHANGE, EXCEPTION, OR ADJUSTMENT TO A RULE, POLICY, PRACTICE, OR SERVICE THAT MAY BE NECESSARY FOR A HANDICAPPED PERSON TO HAVE AN EQUAL OPPORTUNITY TO USE AND ENJOY A DWELLING, INCLUDING PUBLIC AND COMMON USE SPACES.

The Town of Dewey-Humboldt, Arizona Code of Ordinances, Title XV Land Usage, Chapter 153 Zoning Regulations, Subchapter Administration, Enforcement, is hereby amended to add new Section 153.024 Reasonable Accommodations to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

§ 153.024 REASONABLE ACCOMMODATIONS.

(A) *APPLICATION.* IF A HANDICAPPED PERSON BELIEVES A REQUIREMENT OF THE ZONING CODE PREVENTS HIM FROM ENJOYING THE SAME OPPORTUNITIES FOR HOUSING AS OTHER PERSONS WHO ARE NOT HANDICAPPED, THE OWNER SHALL SUBMIT TO THE ZONING ADMINISTRATOR A WRITTEN REQUEST FOR ACCOMMODATION AND THE REASONS WHY THE ACCOMMODATION IS REQUIRED. THE WRITTEN REQUEST SHALL CONTAIN SUFFICIENT FACTS TO ALLOW THE ZONING ADMINISTRATOR TO MAKE AN INDIVIDUALIZED DETERMINATION OF THE PERSON'S NEEDS, TO ADDRESS THE TOWN'S SAFETY AND WELFARE CONCERNS, AND TO ASSURE COMPLIANCE WITH THIS SECTION.

(B) *ZONING ADMINISTRATOR DETERMINATION.* THE ZONING ADMINISTRATOR SHALL REVIEW THE WRITTEN REQUEST AND DETERMINE:

(1) WHETHER AN ACCOMMODATION SHOULD BE MADE PURSUANT TO THE REQUIREMENTS OF THE FEDERAL AND STATE FAIR HOUSING LAWS; AND

(2) IF SO, THE NATURE OF THE ACCOMMODATION.

(C) *FACTORS TO BE CONSIDERED.* IN MAKING A DECISION, THE ZONING ADMINISTRATOR SHALL CONSIDER THE REQUIREMENTS OF THE FEDERAL AND STATE FAIR HOUSING LAWS, THE AMERICANS WITH DISABILITIES ACT, PUBLIC SAFETY AND WELFARE CONCERNS, AND THE RESIDENTIAL CHARACTER OF THE NEIGHBORHOOD. TO SHOW THAT A REQUESTED ACCOMMODATION MAY BE NECESSARY, THERE MUST BE AN IDENTIFIABLE RELATIONSHIP, OR NEXUS, BETWEEN THE REQUESTED ACCOMMODATION AND THE INDIVIDUAL'S DISABILITY.

(D) *EXTENT OF ACCOMMODATION.* THE ACCOMMODATION SHALL BE MADE ONLY TO THE EXTENT NECESSARY TO COMPLY WITH THE FEDERAL AND STATE FAIR HOUSING LAWS AND THE AMERICANS WITH DISABILITIES ACT.

Section II. Savings Clause

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance as amended is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance.

Section III. Repeal of Conflicting Ordinance

Scrivener's error *J Morgan*
adoption date is 2016 not 2015

All other code provisions, ordinances, or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed as of the effective date hereof.

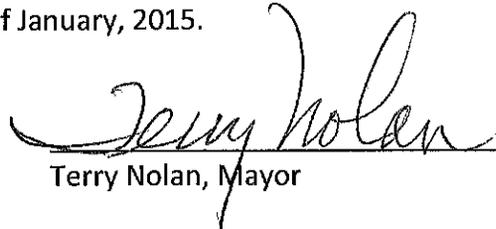
PASSED AND ADOPTED by the Mayor and Common Council of the Town of Dewey-Humboldt, Arizona, this 19th day of January, 2015¹⁶, by the following vote:

AYES: 7

NAYES: 0 ABSENT: 0

EXCUSED: 0 ABSTAINED: 0

APPROVED this 19th day of January, 2015.


Terry Nolan, Mayor

ATTEST:


Judy Morgan, Town Clerk

APPROVED AS TO FORM:


Curtis, Goodwin, Sullivan, Udall & Schwab, P.L.C.
Town Attorneys
By Susan D. Goodwin

I, JUDY MORGAN, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 16-123 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT, ARIZONA ON THE 19TH DAY OF JANUARY, 2015¹⁶, WAS POSTED IN THREE PLACES ON THE 20TH DAY OF JANUARY, 2015¹⁶.


Judy Morgan, Town Clerk