

ORDINANCE NO. 09 - 2018

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF JUPITER INLET COLONY, FLORIDA, AMENDING APPENDIX A-ZONING CODE, ARTICLE I. GENERAL PROVISIONS, SECTION 1. DEFINITIONS AND RULES OF CONSTRUCTION TO AMEND THE DEFINITION OF “FAMILY”; BY AMENDING APPENDIX A-ZONING CODE, ARTICLE I. GENERAL PROVISIONS BY CREATING A NEW SECTION 20 THEREBY ESTABLISHING REASONABLE ACCOMODATION PROCEDURES; PROVIDING APPLICATION PROCEDURES; SETTING FORTH PROVISIONS CONCERNING CONFIDENTIAL INFORMATION CONTAINED IN AN APPLICATION; PROVIDING FOR NOTICE TO PROPERTY OWNERS WITHIN A 300 FEET RADIUS OF THE PROPERTY PROPOSED FOR THE REASONABLE ACCOMODATION; PROVIDING FOR CONSIDERATION OF AND A WRITTEN DETERMINATION BY THE PLANNING AND ZONING ADMINISTRATOR; PROVIDING STANDARDS FOR REVIEW BY THE PLANNING AND ZONING ADMINISTRATOR; PROVIDING FOR APPEAL OF THE DECISION OF THE PLANNING AND ZONING ADMINISTRATOR TO THE TOWN COMMISSION; PROVIDING FOR REVIEW OF THE TOWN COMMISSION DECISION BY THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY; PROVIDING FOR EXPIRATION OF THE APPROVAL OF A REASONABLE ACCOMODATION REQUEST IF NOT IMPLEMENTED WITHIN 180 DAYS; PROVIDING AUTHORITY TO CODIFY; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF JUPITER INLET COLONY, FLORIDA, AS FOLLOWS:

SECTION 1. APPENDIX A-ZONING CODE, Article I. General Provisions, Section 1. Definitions and Rules of Construction of the Code of Ordinances of the Town of Jupiter Inlet Colony is hereby amended by revising the definition of “*Family*” as follows:

~~*Family.* One (1) or more persons related by blood, marriage, adoption, or guardianship, or not more than three (3) persons not so related occupying a dwelling unit and living as a single housekeeping unit in a dwelling.~~

Family means one person or a group of two or more persons living together and interrelated by bonds of legal adoption, blood, or a licit marriage, or a group of not more than three people who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling. Any person under the age of

18 years whose legal custody has been awarded to the state department of children and family services or to a child placing agency licensed by the department, or who is otherwise considered to be a foster child or child in emergency shelter care, and who is placed with a family, shall be deemed to be related to and a member of the family for the purposes of this chapter.

SECTION 2. APPENDIX A-ZONING CODE, Article I. General Provisions of the Code of Ordinances of the Town of Jupiter Inlet Colony is hereby amended by creating a new Section 20 which shall read as follows:

Section 20. Reasonable accommodation procedures.

- (A) This Section implements the policy of the Town for processing requests for reasonable accommodation from the Town's ordinances, rules, policies, practices, and procedures for persons with disabilities as provided by the Federal Fair Housing Amendments Act (42 U.S.C. 3601 et. seq.) ("FHA") and Title II of the Americans with Disabilities Act (42 U.S.C. 12131 et. seq.) ("ADA"), as amended from time to time. For purposes of this Section, a "disabled individual" or a "disabled person" means an individual that qualifies as disabled and/or handicapped under the FHA and/or ADA. Any person who is disabled (or a qualifying entity) may apply for a reasonable accommodation with respect to the Town's zoning or land development code, laws, rules, land use policies, or other relevant practices and/or procedures as provided by the FHA and the ADA by submitting an application for a reasonable accommodation pursuant to the procedures set forth in this section. Applications for a reasonable accommodation must provide proof that a person requires a reasonable accommodation because he/she is disabled and/or handicapped under the FHA and/or ADA.
- (B) A request or application by a disabled person or individual ("Applicant") for a reasonable accommodation under this section shall be in writing and shall be made by completing a form which is available in the Town Clerk's office. The form shall contain questions and requests for information, which are necessary for the Town to process the reasonable accommodation request. At a minimum, the application shall provide the following information:
- (1) Name and contact information of the Applicant;
 - (2) Information regarding property at which reasonable accommodation is requested, including the address and legal description of such location as well as ownership of the subject property;
 - (3) Describe the accommodation and the specific regulation(s) and/or procedure(s) from which accommodation is sought;
 - (4) Reasons the accommodation may be necessary for the Applicant or the individuals with disabilities seeking the specific accommodation, and if relating to housing, why the requested

reasonable accommodation is necessary to use and enjoy the housing;

- (5) Describe qualifying disability or handicap;
 - (6) Other relevant information pertaining to the disability or property that may be needed by the Town in order for it to be able to evaluate the request for reasonable accommodation;
 - (7) All certified recovery residences must provide proof of satisfactory, fire, safety, and health inspections as required by Section 397.487, Fla. Stats., as amended from time to time;
 - (8) Signature of Applicant;
 - (9) If on-site supervisor or manager, provide the name and contact information (phone and email) for each;
 - (10) Date of application;
 - (11) Disclosure of ownership interests of property and Owner's consent for application;
 - (12) All qualifying entities shall submit proof of the licensable service component the qualifying entity holds pursuant to Chapter 397, Fla. Stat.;
 - (13) A listing of the names and mailing addresses (from the Palm Beach County Property appraiser's records) of all property owners within 300 feet radius of the property proposed for a reasonable accommodation;
 - (14) Such other information as may be relevant or pertinent to the request for reasonable accommodation.
- C) If the information required to be provided by the Applicant to the Town includes medical information and/or records, including records relating to the medical condition, diagnosis or medical history of the Applicant, the Town shall treat the medical information as confidential information of the Applicant. In such case, the Town shall endeavor to keep the Applicant's medical information confidential to the extent permitted by law. The Town shall advise Applicant, and/or the Applicant's authorized agent, attorney or representative, of any request received by the Town for disclosure of the medical information or documentation provided by Applicant to the Town. Applicant may, in writing, authorize the Town to release the medical records to a third party. The Town will cooperate with the Applicant to the extent allowed by law in actions initiated by persons or entities that challenge or oppose the Town's nondisclosure of medical information or records of the Applicant. However, the Town shall have no obligation to defend or incur legal or other expenses to defend an action seeking to compel the production

of medical records claimed to be public records under the Florida Public Records Law.

- (D) When a reasonable accommodation request has been submitted to the Town Clerk, the request shall be referred to the Planning and Zoning Administrator for review and consideration. Within 10 days of the receipt of an application, the Town Clerk shall mail a notice to all property owners within a 300 foot radius of the property proposed for the reasonable accommodation. Such property owners shall, within thirty (30) days of the date of the application, be permitted to make written comments to the Planning and Zoning Administrator concerning the pending application. The Planning and Zoning Administrator may request additional information from the Applicant, specifying in detail what information is required. The Applicant shall have fifteen (15) days to provide the requested information.
- (E) The Planning and Zoning Administrator shall issue a written determination within forty-five (45) days of receipt of the completed application, or, if additional information is requested, within thirty (30) days of receipt of the additional information, and may, in accordance with law:
- (1) Grant the reasonable accommodation request in full, with or without the imposition of conditions; or
 - (2) Grant a portion of the reasonable accommodation request and deny a portion of the reasonable accommodation request, and may impose conditions upon the portion of the reasonable accommodation request that was granted; or
 - (3) Deny the reasonable accommodation request.
- (F) In determining whether a reasonable accommodation request should be granted or denied, the Applicant, or, if applicable, the qualifying entity, must establish that the Applicant is protected under the provisions of the FHA and/or ADA by demonstrating that the Applicant is handicapped or disabled, as defined in the FHA and/or ADA. Although the definition of disability is subject to judicial interpretation, for purposes of this section, the disabled individual who is the subject of the request for a reasonable accommodation must show:
- (1) A physical or mental impairment which substantially limits one or more major life activities; and
 - (2) A record of having such impairment; and
 - (3) That the disabled individual is regarded as having such impairment. After satisfying the foregoing three criteria, the Applicant must demonstrate that the proposed accommodations being sought are reasonable and necessary to afford him/her an equal opportunity to use and enjoy housing.
- (G) In determining whether a reasonable accommodation request should be granted or denied, the following factors or criteria shall be considered, as

appropriate:

- (1) Impact of proposed use on the character of the neighborhood; and
- (2) Parking and traffic impacts of the proposed use; and
- (3) Estimated length of stay of occupants at the proposed use; and
- (4) Size and character of the property considering the estimated number of occupants and available kitchen, bedroom, bathroom and other typical residential facilities; and
- (5) Such other factors and considerations as deemed appropriate.

(H) The decision of the Planning and Zoning Administrator may be appealed to the Town Commission within thirty (30) calendar days after the date the written decision of the Planning and Zoning Administrator is rendered. The Town Commission shall schedule a public hearing to consider the appeal within forty-five (45) days of the filing of the notice of appeal and shall issue a written determination.

(I) An Applicant may seek review of the Town Commission decision, by writ of certiorari to the Fifteenth Judicial Circuit, within thirty (30) days after the date on which the written decision is rendered.

(J) No fee shall be imposed by the Town Clerk's office in connection with a request for reasonable accommodation under this Section, or for an appeal of a decision of the Planning and Zoning Administrator. The Town shall have no liability for or legal obligation to pay an Applicant's attorney's fees or costs, including the attorney's fees and costs incurred in any appeal at any appellate level.

(K) During the time when an application for reasonable accommodation is pending, the Town shall not enforce the land development code, ordinance, rules, policies, and procedures which are the subject of the request for a reasonable accommodation against the Applicant.

(L) The following general provisions shall be applicable:

- (1) The Town shall display a notice in the Town's public notice bulletin board (and shall maintain copies available for review in the Town Clerk's office), advising the public that disabled individuals (and qualifying entities, if applicable) may request a reasonable accommodation as provided in this Section.
- (2) A disabled individual, or if applicable a qualifying entity who has applied for a reasonable accommodation, may be represented at all stages of the reasonable accommodation process by a person designated by the disabled individual as their authorized agent, attorney, or representative.

- (3) The Town shall provide assistance and accommodation as is required pursuant to the FHA and ADA in connection with a disabled person's request for reasonable accommodation, including without limitation, assistance with interpreting the reasonable accommodation application form and responding to the questions contained therein, assistance with completing the form, assistance with filing an appeal, and assistance in appearing at hearings to ensure the process is accessible.

(M) Approvals of requests for reasonable accommodation shall expire within one hundred eighty (180) days if not implemented.

SECTION 3. Specific authority is hereby granted to codify and incorporate this ordinance into the existing Code of Ordinances of the Town of Jupiter Inlet Colony, Florida.

SECTION 4. That all ordinances or parts or ordinances, in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

SECTION 5. If any clause, section or other part of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way affecting the validity of the other provisions of this Ordinance.

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SECTION 6. This Ordinance shall become effective upon its passage and adoption.

FIRST READING this 9th day of October, 2018.

SECOND READING and FINAL PASSAGE this 13th day of November, 2018.

TOWN OF JUPITER INLET COLONY, FLORIDA

MAYOR DANIEL J. COMERFORD, III

VICE-MAYOR MILTON J. BLOCK

COMMISSIONER JEROME A. LEGERTON

COMMISSIONER SAEED A. KHAN

ATTEST:

COMMISSIONER RICHARD D. BUSTO

TOWN CLERK JUDE M. GOUDREAU