

CITY OF MARGATE, FLORIDA

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF MARGATE, FLORIDA, AMENDING CHAPTER 2, ARTICLE I IN GENERAL, SECTION 2-18 OFFICIAL ZONING CONFIRMATION LETTERS; AMENDING APPENDIX-A ZONING; ARTICLE III GENERAL PROVISIONS, SECTION 3.30. REASONABLE ACCOMMODATION PROCEDURES; PROVIDING FOR ECONOMIC DEVELOPMENT DEPARTMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MARGATE, FLORIDA:

**SECTION 1:** The Code of Ordinances of the City of Margate, Florida, Chapter 2 - Administration, Article I In General, Section 2-18 Official zoning confirmation letters, is hereby amended to read as follows<sup>1</sup>:

Sec. 2-18. - Official zoning confirmation letters.

(a) An administrative fee of seventy-five dollars (\$75.00) will be applied to all requests for an official zoning confirmation letter issued by the eCity. Such fee shall be deposited into the general fund.

(1) Each official zoning confirmation letter shall only include zoning and land use information for a single property. If multiple properties are included in a single request for an official zoning confirmation letter, the administrative fee shall be applied for each letter issued by the eCity.

<sup>1</sup> CODING: Words in ~~struck through~~ text are deletions from existing text, words in underscored text are additions to existing text, and **shaded** text are changes between First and Second Readings.

(b) All requests for an official zoning confirmation letter must be submitted to the Economic Development ~~Department~~ ~~of environmental and engineering services~~ in writing and include the following:

- (1) Administrative fee;
- (2) Address of property for which the official zoning confirmation letter shall provide current zoning and land use information;
- (3) Current use of property;
- (4) Proposed use of property, if any;
- (5) Current telephone number, e-mail address, and mailing address of person or organization that has requested the official zoning confirmation letter.

**SECTION 2:** The Code of Ordinances of the City of Margate, Florida, Appendix-A Zoning, Article III General provisions, Section 3.30 Reasonable accommodation procedures, is hereby amended to read as follows<sup>1</sup>:

Section 3.30. - Reasonable accommodation procedures.

- (1) This section implements the policy of the City of Margate for processing of requests for reasonable accommodation to its ordinances, rules, policies, and procedures for persons with disabilities as provided by the federal Fair Housing Amendments Act (42 USC 3601 et seq.) (FHA) and title II of the Americans with Disabilities Act (42 USC 12131 et seq.) (ADA). For purposes of this section, a "disabled" individual or person is an individual that qualifies as disabled and/or handicapped under the FHA and/or ADA. Any person who is disabled (or qualifying entities) may request a reasonable accommodation with respect to the ~~City's~~ land use or zoning laws, rules, policies, practices and/or procedures as provided by the FHA and the ADA pursuant to the procedures set out in this section.
- (2) A request by an applicant for reasonable accommodation under this section shall be made in writing by completion of a reasonable accommodation request form, which form is

maintained by (and shall be submitted to) the Economic Development Department of environmental and engineering services (DEES). The reasonable accommodation form shall contain such questions and requests for information as are necessary for processing the reasonable accommodation request. The reasonable accommodation request form shall be substantially in the form set forth in subsection (10), below.

(3) Should the information provided by the disabled individual to the eCity include medical information or records, including records indicating the medical condition, diagnosis or medical history of the disabled individual, such individual may, at the time of submitting such medical information, request that the eCity, to the extent allowed by law, treat such medical information as confidential information of the disabled individual. The eCity shall thereafter endeavor to provide written notice to the disabled individual, and/or their representative, of any request received by the eCity for disclosure of the medical information or documentation which the disabled individual has previously requested be treated as confidential by the eCity. The eCity will cooperate with the disabled individual, to the extent allowed by law, in actions initiated by such individual to oppose the disclosure of such medical information or documentation, but the eCity shall have no obligation to initiate, prosecute or pursue any such action, or to incur any legal or other expenses (whether by retention of outside counsel or allocation of internal resources) in connection therewith, and may comply with any judicial order without prior notice to the disabled individual.

(4) The city manager, or his/her designee, shall have the authority to consider and act on requests for reasonable accommodation, after notice and public hearing to receive comments, input and information from the public (provided, however, the city manager or designee, shall not be required to render their decision at said public hearing). When a reasonable accommodation request form has been completed and submitted to the Economic Development Department-DEES, it will be referred to the city manager, or designee, for review and consideration. The city manager, or designee, shall issue a written determination within forty-five (45) days of the date of receipt of a completed application and may, in accordance

1 with federal law, (1) grant the accommodation request,  
2 (2) grant a portion of the request and deny a portion of  
3 the request, and/or impose conditions upon the grant of  
4 the request, or (3) deny the request, in accordance with  
5 federal law. Any such denial shall be in writing and  
6 shall state the grounds therefore. All written  
7 determinations shall give notice of the right to appeal.  
8 The notice of determination shall be sent to the  
9 requesting party (i.e. he disabled individual or his/her  
10 representative) by certified mail, return receipt  
11 requested. If reasonably necessary to reach a  
12 determination on the request for reasonable  
13 accommodation, the city manager, or designee, may, prior  
14 to the end of said forty-five-day period, request  
15 additional information from the requesting party,  
16 specifying in sufficient detail what information is  
17 required. The requesting party shall have fifteen (15)  
18 days after the date of the request for additional  
19 information to provide the requested information. In the  
20 event a request for additional information is made, the  
21 forty-five-day period to issue a written determination  
22 shall no longer be applicable, and the city manager, or  
23 designee, shall issue a written determination within  
24 thirty (30) days after receipt of the additional  
25 information. If the requesting party fails to provide the  
26 requested additional information within said fifteen-day  
27 period, the city manager, or designee, shall issue a  
28 written notice advising that the requesting party had  
29 failed to timely submit the additional information and  
30 therefore the request for reasonable accommodation shall  
31 be deemed abandoned and/or withdrawn and no further  
32 action by the City with regard to said reasonable  
33 accommodation request shall be required.

- 34  
35 (5) In determining whether the reasonable accommodation  
36 request shall be granted or denied, the requesting party  
37 shall be required to establish that they are protected  
38 under the FHA and/or ADA by demonstrating that they are  
39 handicapped or disabled, as defined in the FHA and/or  
40 ADA. Although the definition of disability is subject to  
41 judicial interpretation, for purposes of this ordinance  
42 the disabled individual must show: (i) a physical or  
43 mental impairment which substantially limits one or more  
44 major life activities; or (ii) a record of having such  
45 impairment; or (iii) that they are regarded as having  
46 such impairment. Next, the requesting party will have to  
47 demonstrate that the proposed accommodations being sought  
48 are reasonable and necessary to afford

handicapped/disabled persons equal opportunity to use and enjoy housing. The foregoing (as interpreted by the courts) shall be the basis for a decision upon a reasonable accommodation request made by the city manager, or designee, or by the city commission in the event of an appeal.

(6) Within thirty (30) days after the city manager's, or designee's, determination on a reasonable accommodation request is mailed to the requesting party, such applicant may appeal the decision. All appeals shall contain a statement containing sufficient detail of the grounds for the appeal. Appeals shall be to the city commission who shall, after public notice and a public hearing, render a determination as soon as reasonably practicable, but in no event later than sixty (60) days after an appeal has been filed.

(7) There shall be no fee imposed by the City in connection with a request for reasonable accommodation under this section or an appeal of a determination on such request to the City Commission, and the City shall have no obligation to pay a requesting party's (or an appealing party's, as applicable) attorneys fees or costs in connection with the request, or an appeal.

(8) While an application for reasonable accommodation, or appeal of a determination of same, is pending before the City, the City will not enforce the subject zoning ordinance, rules, policies, and procedures against the Applicant.

(9) The following general provisions shall be applicable:

(a) The City shall display a notice in the City's public notice bulletin board (and shall maintain copies available for review in the Economic Development Department, DEES, the Building Department, and the City Clerk's Office), advising the public disabled individuals (and qualifying entities) may request reasonable accommodation as provided herein.

(b) A disabled individual may apply for a reasonable accommodation on his/her own behalf or may be represented at all stages of the reasonable

1 accommodation process by a person designated by the  
2 disabled individual.

3  
4 (c) The City shall provide such assistance and  
5 accommodation as is required pursuant to FHA and ADA  
6 in connection with a disabled person's request for  
7 reasonable accommodation, including, without  
8 limitation, assistance with reading application  
9 questions, responding to questions, completing the  
10 form, filing an appeal, and appearing at a hearing,  
11 etc., to ensure the process is accessible.

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13 **SECTION 3:** All ordinances or parts of ordinances  
14 in conflict are repealed to the extent of such conflict.

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16 **SECTION 4:** If any section, sentence, clause, or  
17 phrase of this Ordinance is held to be invalid or  
18 unconstitutional by a court of competent jurisdiction, then  
19 said holding shall in no way affect the validity of the  
20 remaining portions of this Ordinance.

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22 **SECTION 5:** It is the intention of the City  
23 Commission that the provisions of this Ordinance shall become  
24 and be made a part of the City of Margate Code, and that the  
25 sections of this Ordinance may be renumbered or relettered  
26 and the word "ordinance" may be changed to "section",  
27 "article" or such other appropriate word or phrase in order  
28 to accomplish such intentions.

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30 **SECTION 6:** This Ordinance shall become effective  
31 immediately upon adoption at its second reading.

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33 PASSED ON FIRST READING THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2017.

34 PASSED ON SECOND READING THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2017.

35 ATTEST:

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38 \_\_\_\_\_  
39 JOSEPH J. KAVANAGH  
40 CITY CLERK

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44 MAYOR TOMMY RUZZANO

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RECORD OF VOTE - 1<sup>ST</sup> READING RECORD OF VOTE - 2<sup>ND</sup> READING

Caggiano	_____	Caggiano	_____
Simone	_____	Simone	_____
Peerman	_____	Peerman	_____
Schwartz	_____	Schwartz	_____
Ruzzano	_____	Ruzzano	_____