

1 CITY OF MARGATE, FLORIDA

2
3 ORDINANCE NO. _____

4
5
6 AN ORDINANCE OF THE CITY OF MARGATE, FLORIDA, AMENDING
7 CHAPTER 9, ARTICLE V, RESIDENTIAL RENTAL UNIT
8 INSPECTION PROGRAM; PROVIDING FOR VACATION RENTALS;
9 PROVIDING FOR DEFINITIONS; PROVIDING FOR CODIFICATION;
10 PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY;
11 PROVIDING FOR AN EFFECTIVE DATE.
12

13 WHEREAS, Chapter 509, Florida Statutes, Lodging and Food
14 Service Establishments; Membership Campgrounds, regulates
15 public lodging establishments, which is divided into two
16 subcategories: transient public lodging establishment and
17 non-transient public lodging establishment; and

18 WHEREAS, Subsection 509.013(4)(a)1, Florida Statutes,
19 defines transient public lodging establishment as "any unit,
20 group of units, dwelling, building, or group of buildings
21 within a single complex of buildings which is rented to
22 guests more than three times in a calendar year for periods
23 of less than 30 days or one calendar month, whichever is
24 less, or which is advertised or held out to the public as a
25 place regularly rented to guests"

26 WHEREAS, Chapter 2011-119, Laws of Florida, created a
27 new classification of public lodging establishment known as

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1 vacation rentals that is defined in Section 509.242(c),
2 Florida Statutes, as "any unit or group of units in a
3 condominium or cooperative or any individually or
4 collectively owned single-family, two-family, three-family,
5 or four-family house or dwelling unit that is also a
6 transient public lodging establishment but that is not a
7 timeshare project"; and

8 **WHEREAS**, Subsection 509.032(7), Florida Statutes,
9 provides that local laws, ordinances, or regulations may not
10 prohibit vacation rentals or regulate the duration or
11 frequency of rental of vacation rentals; and

12 **WHEREAS**, the Florida Attorney General opined in Advisory
13 Opinion AGO 2014-09, that "[t]o the extent a zoning ordinance
14 addresses vacation rentals in an attempt to prohibit them in
15 a particular area where residences are otherwise allowed, it
16 would appear that a local government would have exceeded the
17 regulatory authority granted in Section 509.032(7)(b),
18 Florida Statutes"; and

19 **WHEREAS**, unregulated vacation rentals can create
20 disproportionate impacts related to their size, excessive
21 occupancy, and lack of proper facilities; and

22 **WHEREAS**, the presence of vacation rentals within

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1 residential dwelling units in established residential
2 neighborhoods can create negative compatibility impacts,
3 among which include, but are not limited to, excessive noise,
4 on-street parking, accumulation of trash, and diminished
5 public safety; and

6 **WHEREAS**, many residential structures were constructed
7 prior to the enactment of more current building and fire
8 prevention codes that require minimum life, safety
9 improvements, like hardwired or interconnected smoke
10 detectors, carbon monoxide detectors, or pool safety drains,
11 etc.; and

12 **WHEREAS**, Section 509.032(7)(a), Florida Statutes,
13 authorizes local governments to conduct inspections of public
14 lodging establishments for compliance with the Florida
15 Building Code and the Florida Fire Prevention Code, pursuant
16 to Sections 553.80 and 633.206, Florida Statutes; and

17 **WHEREAS**, the City Commission wishes to adopt
18 registration requirements and regulations relating to
19 vacation rentals as allowed by Florida law in order to
20 maintain the integrity of the residential neighborhoods in
21 the City of Margate and to enforce minimum life safety
22 standards.

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1 **WHEREAS**, in order to ensure that the current owners of
2 residential dwelling units that are utilized for vacation
3 rentals are notified, as soon as possible, of violations or
4 any emergencies related to their property; and

5 **WHEREAS**, many of these properties are the responsibility
6 of out-of-state owners and the records of the Broward County
7 Tax Collector and Broward County Property Appraiser do not
8 contain all information necessary to contact an owner in case
9 of a health and safety violation or an emergency; and

10 **WHEREAS**, it is in the best interest of the health and
11 safety of the citizens of Margate that any violations are
12 cured as quickly as possible and that vacation rental
13 properties be included within the Residential Rental Unit
14 Inspection Program which will enable the City to have better
15 contact information for owners; and

16 **WHEREAS**, it is necessary to off-set the City's cost for
17 adding vacation rentals to the Residential Rental Unit
18 Inspection Program; and

19 **WHEREAS**, the City Commission of the City of Margate
20 therefore finds it to be in the best interests of the health,
21 safety, and welfare of the citizens of Margate to include
22 vacation rentals within the Residential Rental Unit

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1 Inspection Program and to impose a registration fee.

2 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF**
3 **THE CITY OF MARGATE, FLORIDA THAT:**

4 **Section 1.** The foregoing "WHEREAS" clauses are
5 hereby ratified and confirmed as being true and correct, and
6 are hereby incorporated herein and made a part hereof.

7 **Section 2.** The Code of Ordinances of the City of
8 Margate Florida, Article V, Residential Rental Unit
9 Inspection Program, Section 9-36 Purpose and Intent, is
10 hereby amended to read as follows:

11 Article V - Residential Rental Unit Inspection Program

12 Sec. 9-36 *Purpose and intent.*

13 This article shall be known as the "residential rental
14 unit inspection program." The purpose of the program is to
15 create a database of current and accurate information
16 required to contact a property owner, or designated entity,
17 regarding health or safety violations, minimum housing code
18 complaints, or emergency situations at long term and vacation
19 residential rental units. The program's further purpose is to
20 conduct long-term rental property inspections to address
21 substandard maintenance of these properties, promote greater
22 compliance with the city's property maintenance standards,

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1 protect property values, and preserve the quality of
2 neighborhoods and available housing.

3

4 **Section 3.** The Code of Ordinances of the City of
5 Margate Florida, Article V, Residential Rental Unit
6 Inspection Program, Section 9-37 Definitions, is hereby
7 amended to read as follows:

8 *Sec. 9-37 Definitions.*

9 The following words, terms and phrases, when used in this
10 article, shall have the meanings ascribed to them in this
11 section, except where the context clearly indicates a
12 different meaning. Where words have not been defined, the
13 most recent edition of the Merriam-Webster Unabridged
14 Dictionary shall prevail.

15 (a) *Agent or Managing Agent* means the individual or
16 individuals designated, in writing, by the owner as the
17 person(s) authorized by the owner to perform any duty imposed
18 upon the owner by this section.

19 (b) *Certificate of Inspection* means the document issued by
20 the city's rental coordinator attesting that the rental unit
21 has been properly inspected in accordance with this article.

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1 (c) *Enforcement Officer* means any law enforcement officer,
2 building official, zoning inspector, code enforcement
3 officer, fire inspector, building inspector, or other person
4 authorized by the city to enforce the applicable code(s).

5 (d) *Inspectee* means the person to whom the certificate of
6 inspection is issued pursuant to this section. The term
7 "inspectee" includes within its definition the term
8 "agent" where applicable.

9 (e) *Inspection year* means one (1) calendar year from the
10 date of the issuance of a certificate of inspection.

11 (f) *Landlord* means one (1) or more persons, jointly or
12 severally, in whom is vested all or part of the legal
13 title to the premises or all or part of the beneficial
14 ownership and a right to the present use and enjoyment of
15 the premises, including a mortgage holder in possession
16 of a rental unit. Also see owner.

17 (g) *Lease* means any agreement or other arrangement,
18 written or otherwise, offered by a landlord to a lessee
19 in order to lease, sublease, rent, license, sublicense,
20 or allow occupancy of a residential rental unit.—~~This~~

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1 ~~shall exclude a lease that is for a "vacation rental" as~~
2 ~~defined by Florida Statutes.~~

3 (h) Lessee means a person to whom a lease, sublease,
4 license, or residential rental agreement is granted,
5 whether written or oral.

6 (i) Long-term rental shall mean a residential unit
7 rented to the same occupant or occupants which is
8 advertised or held out to the public as a place not
9 regularly rented to transient occupants, and also not a
10 transient public lodging establishment as defined in F.S.
11 § 509.013, but that is not a timeshare project.

12 (j) Owner means every person, entity, landlord, or
13 mortgagee, who alone or severally with others:

14 1. Has legal title to any rental dwelling, dwelling
15 unit, mobile dwelling unit, building, structure,
16 parcel of land, Vacant or otherwise, including but
17 not limited to, a mobile home; or

18 2. Has legal care, charge or control of any
19 dwelling, dwelling unit, mobile dwelling unit,
20 building, structure or parcel of land, Vacant or
21 otherwise, including a mobile home, in any capacity,

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1 including but not limited to, agent, executor,
2 executrix, administrator, administratrix, trustee or
3 guardian of the estate of the holder of legal title;
4 or

5 3. Is a mortgagee in possession of any such
6 property; or

7 4. Is an agent, trustee, or other person appointed
8 by the courts and vested with possession or control
9 of any such property or through the production of a
10 power of attorney providing for such authorization
11 shall be filed with this application.

12 The Property Manager shall not be considered the Owner.

13 (k) *Person* means any individual, firm, corporation,
14 partnership, association, trust or other legal entity, or
15 any combination thereof.

16 (l) *Property Manager* means any party designated by the
17 owner as responsible for inspecting, maintaining and
18 securing the property as required in this section.

19 (m) *Rental Property* for this article only, any
20 structure or portion of a structure within the City of
21 Margate which is occupied by someone other than the owner

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1 of the real estate for residential or commercial
2 purposes, including, but not limited to, the following:
3 boarding homes, mobile homes, mobile home spaces, town
4 homes, and condominium unit(s), and for which the owner
5 receives any value or consideration, including but not
6 limited to money, or the exchange of goods or services,
7 regardless of the relationship between lessor and lessee.
8 Evidence of rental shall be presumed when any information
9 that on its own or combined with other documentation
10 would lead a reasonable person to believe that the
11 property is rented. ~~This definition shall exclude~~
12 ~~"vacation rental" as defined by Florida Statutes Section~~
13 ~~509.242(1)(c).~~

14 (n) Residential rental unit shall mean a Residential
15 one-dwelling unit rental, including individual
16 condominium units, two-dwelling-unit premises and/or
17 boarding homes. In the case of a two-dwelling unit where
18 the owner occupies one of the units, the unit the owner
19 occupies shall not be considered a rental unit but must
20 register the second unit as a rental unit. For the
21 purposes of this chapter, any residential unit, one-
22 dwelling unit or two-dwelling unit, where the unit is not

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1 occupied by the owner of the property, even if rent is
2 not being charged or collected, shall be considered a
3 rental unit. Residential rental unit shall not include
4 any dwelling unit that is owned by a federal, state, or
5 local housing program or the federal Department of
6 Housing and Urban Development, hotels, motels, public
7 lodging establishments, as defined in Section 509.013,
8 Florida Statutes, or any community residential facility
9 licensed and inspected by the state of Florida, ~~or~~
10 ~~"vacation rental" as defined by Florida Statutes Section~~
11 ~~509.242(1)(c).~~

12 (o) *Tenant* means a person or persons to whom a rental
13 unit is leased or rented by the inspectee. All children
14 under 12 years of age shall be excluded from the term
15 "tenant."

16 (p) *City Rental Coordinator* means the municipal official
17 or employee designated to receive rental inspection
18 applications and to issue Certificate of Inspections
19 pursuant to this Section.

20 (q) *Transient occupants* means any person, or guest or
21 invitee of such person, who occupies or is in actual or
22 apparent control or possession of residential property

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1 registered as or required pursuant to this article to be
2 registered as a vacation rental. It shall be a rebuttable
3 presumption that any person who holds themselves out as
4 being an occupant or guest of an occupant of the vacation
5 rental is a transient occupant.

6 (r) Vacation rental shall mean any unit or group of units
7 in a condominium or cooperative or any individually or
8 collectively owned single-family, two-family, three-
9 family, or four-family house or dwelling unit that is
10 rented to transient occupants more than three (3) times
11 in a calendar year for periods of less than thirty (30)
12 days or one (1) calendar month, whichever is less, or
13 which is advertised or held out to the public as a place
14 regularly rented to transient occupants, and also a
15 transient public lodging establishment as defined in F.S.
16 § 509.013, but that is not a timeshare project.

17 **Section 4.** The Code of Ordinances of the City of
18 Margate Florida, Article V, Residential Rental Unit
19 Inspection Program, Section 9-38 Annual inspection required,
20 is hereby amended to read as follows:

21
22 Sec. 9-38 Annual inspection required.

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1 All rental units, as defined in this Article~~Section~~,
2 shall hereafter be inspected at least once within a twelve-
3 month period by the Building Department. Rental inspection
4 applications shall be provided for that purpose and shall be
5 obtained from the Building Department. Such inspection shall
6 occur within a twelve-month period as provided herein.
7 Properties registered as a result of Section 40.16(9), as may
8 be amended from time to time, are not subject to this
9 Section. Any owner who is subject to the registration and fee
10 requirements of Section 40.16(9) *Registration of abandoned*
11 *real property*, and has paid the required fees shall be exempt
12 from the registration and inspection fees required under this
13 Article, upon proof of payment.

14 **[Note to Municipal Code: Sections 9-39 through 9-42**
15 **shall remain as codified.]**
16

17 **Section 5.** The Code of Ordinances of the City of
18 Margate Florida, Article V, Residential Rental Unit
19 Inspection Program, Section 9-43 Rental inspection
20 application forms; filing; indexing; contents; availability;
21 amendment, is hereby amended to read as follows:
22

23 Sec. 9-43. Rental inspection application forms; filing;

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1 indexing; contents; availability; amendment

2 (a) Every owner shall file with the City Rental
3 Coordinator a rental inspection application form for
4 each rental unit contained within a building or
5 structure, which shall include the following
6 information:

7 1. The property owner's name, address and telephone
8 number, email address, and any other emergency
9 contact information.

10 2. If the applicant is a corporation, partnership,
11 limited liability company or any other legal entity,
12 the full corporate name and address of the business,
13 name and address of the registered agent and the
14 state of incorporation.

15 3. The legal address of the dwelling unit for which
16 the rental application certification is applied and
17 the legal description and folio number as indicated
18 with the Broward County Property Appraiser's Office.

19 4. The name of the complex or community, including
20 the homeowner's or condominium association if
21 applicable, and whether it is a single-family home,
22 duplex, condominium or townhouse including the name

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1 and address of the association.

2 5. The name, address, telephone number, and e-mail
3 address of the designated property manager/agent to
4 provide regular maintenance service, if any. An owner
5 who resides more than thirty miles from the rental
6 property shall designate a property manager/agent,
7 that may be the first point of contact should there
8 be any matters related to the property, including an
9 emergency affecting the premises, and who has the
10 authority to make emergency decisions concerning the
11 building and any repair thereto or expenditure in
12 connection therewith. The address shall be a physical
13 location of where said person(s) can normally be
14 found during regular business hours and normally
15 found during off hours. Any notices required by the
16 City Code or by Florida Statutes will also be sent to
17 the designated property manager. If the property
18 manager is authorized to act on behalf of the owner
19 as an authorized agent.

20 6. The name and address of every holder of a
21 recorded mortgage on the premises.

22 7. As to each rental unit, a specification of the

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1 exact number of sleeping rooms contained in the
2 rental unit, and the exact number of sleeping
3 accommodations contained in each of the sleeping
4 rooms, identifying each sleeping room specifically by
5 number and location within the apartment or dwelling,
6 and by the square footage thereof. In order to
7 satisfy the requirements of this provision, an owner
8 shall submit a floor plan which shall become part of
9 the application and which shall be attached to the
10 rental inspection application form when filed by the
11 City's Rental Coordinator.

12 8. The number of buildings and residential dwelling
13 units on the property.

14 9. Whether the owner has ever been cited for, or
15 found in violation of any required codes and if so,
16 the date, jurisdiction, nature of violation and
17 disposition of violation.

18 10. Such other information as may be prescribed by
19 the City.

20 11. Statement of accuracy and signature: The
21 application form shall contain substantially the
22 following language:

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1 "The undersigned has carefully reviewed this
2 application and all facts, figures, statements
3 contained in this application are true, correct,
4 and complete. The undersigned understands that
5 failure to comply with the City's ordinances may
6 result in the issuance of a code enforcement
7 notice of violation that may require a hearing
8 before a special magistrate and could result in
9 administrative fines, and other penalties pursuant
10 to Section 1-8 of City Code, being imposed."

11 The applicant shall execute the registration
12 application immediately after the statement
13 required above, and the person's title/capacity in
14 relation to the property.

15
16 ~~12~~. In addition to the information above, the owner
17 of a long term rental shall:

18 a. maintain a listing of the names of the tenants
19 residing within the units. This list will not be
20 required to be submitted with the application;
21 however, the list should be made available to the

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1 City upon reasonable notice; and

2 b. provide to the tenants a copy of a pamphlet

3 containing guidelines for rental property provided

4 by the City; and.

5 c. In the event that an inspected property is

6 sold, assigned or transferred during the

7 Certificate of Inspection year, the seller of the

8 property shall notify the buyer of the property of

9 the requirements of this Article.

10 d. Certification from the property owner that all

11 tenants and prospective tenants have been screened

12 and that there are no violations related to

13 Article XII - Sexual Offender and Sexual Predators

14 of City Code.

15 e. Statement of accuracy and signature: The

16 application form shall contain substantially the

17 following language:

18 "The undersigned has carefully reviewed this

19 application and all facts, figures, statements

20 contained in this application are true, correct,

21 and complete. The undersigned understands that

22 failure to comply with the City's ordinances may

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1 result in the issuance of a code enforcement
2 notice of violation that may require a hearing
3 before a special magistrate and could result in
4 administrative fines, and other penalties pursuant
5 to Section 1-8 of City Code, being imposed.”

6 The applicant shall execute the registration
7 application immediately after the statement
8 required above, and the person’s title/capacity in
9 relation to the property.

10 13. In addition (a)1-11 above, the owner of a
11 vacation rental shall be responsible for the
12 following:

13 a. file the following information with the City
14 Rental Coordinator:

15 i. Proof of registration with the Florida
16 Department of Revenue for sales tax collection
17 and Broward County for Tourist Development
18 Tax; and

19 ii. Proof of licensure with the Florida
20 Department of Business and Professional

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1 Regulation for transient public lodging
2 establishment.

3 b. Keep a register of all overnight guests, which
4 shall be open to inspection by authorized
5 personnel of the City of Margate at all times.
6 The register shall include a list of all rentals
7 for the preceding ninety (90) day period; and

8 c. Conducting an on-site inspection of the
9 vacation rental at the conclusion of each rental
10 period, and prior to the commencement of the next
11 rental period, to ensure continued compliance
12 with the requirements of this Article; and

13 d. Be available with authority to address and
14 coordinate solutions to problems with the rental
15 of the property twenty four (24) hours a day,
16 seven (7) days a week. For purposes of this
17 section "available" shall mean to either arrive
18 on-site at the property, be available by video
19 phone call, or phone within 2 hours of the
20 initial contact, or contact attempt.

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1 e. Provide to the guests, a copy of a pamphlet
2 containing guidelines for vacation rentals
3 provided by the City.

4 (b) Amendments; filing. Every person required to file a
5 rental inspection application pursuant to this
6 Article shall file an amended rental inspection
7 application within ten (10) days after any change in
8 the information required to be included therein.

9 (c) Copy to occupants, guests, and tenants. Every owner
10 shall provide each occupant, guest, or tenant
11 occupying a rental unit with a copy of the
12 Certificate of Inspection. This subsection may be
13 complied with by posting a copy of the Certificate
14 of Inspection in a conspicuous place within the
15 rental unit(s).

16 ~~(d) The owner shall make available to the City, upon a~~
17 ~~reasonable request, any rental record necessary to~~
18 ~~determine when changes of occupancy have occurred.~~
19 ~~In this regard, the tenant listing shall be made~~
20 ~~available to City upon request.~~

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1 (de) An annual renewal of the registration is required
2 each year. The City shall submit notification of
3 renewal to the property owner. It is the
4 responsibility of the owner, or his designated
5 agent, to update, as required, any and all
6 information required for the certification.
7 Completed applications for renewal which are not
8 received by the City within 30 days of required
9 application or renewal, shall be subject to a late
10 fee, established by resolution of the City
11 Commission.

12 (fg) Self-inspection checklist: For all properties
13 subject to this Article, the City shall include a
14 self-inspection checklist as part of the initial
15 certification application that must be completed by
16 the owner of record or designee.

17 1. The self-inspection checklist must be submitted
18 to the City at the time the initial certification
19 application is submitted. The owner of record of
20 the property or designee must certify that the
21 inspection has been completed and the results of

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1 the inspection, as indicated on the checklist is
2 accurate and complete.

3 2. For any items on the checklist that are not in
4 compliance at the time of submittal, the property
5 owner shall be given ten (10) business days to
6 correct which may be extended upon written approval
7 by the Building Official, and if not corrected,
8 could result in an appearance before a special
9 magistrate.

10 3. The self-inspection checklist shall include but
11 not be limited to code requirements related to
12 health and safety concerns (i.e. swimming pools,
13 mowing and maintaining the lawn, trash and litter
14 and house address) and property maintenance (i.e.
15 discolored roof, exterior storage, inoperable
16 vehicles, required landscaping, screening of
17 accessory structures).

18 4. Every year the owner of the property or
19 designee shall certify that the property is still
20 in compliance and shall remain in compliance

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1 pursuant to this section on a form made available
2 by the City.

3 **[Note to Municipal Code: Sections 9-44 through 9-48**
4 **shall remain as codified.]**
5

6 **Section 6.** It is the intention of the City
7 Commission of the City of Margate, Florida that the
8 provisions of this ordinance shall become and be made a part
9 of the City of Margate Code of Ordinances. The sections of
10 this ordinance may be re-numbered or re-lettered and the word
11 "ordinance" may be changed to "section," "article," or such
12 other appropriate word or phrase in order to accomplish such
13 intentions.

14 **Section 7.** All Ordinances or parts of Ordinances,
15 Resolutions or parts of Resolutions in conflict herewith be,
16 and the same are hereby repealed to the extent of such
17 conflict.

18 **Section 8.** If any clause, section, or other part or
19 application of this Ordinance shall be held by any court of
20 competent jurisdiction to be unconstitutional or invalid, such
21 unconstitutional or invalid part or application shall be
22 considered as eliminated and so not affecting the validity of

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1 the remaining portions or applications remaining in full force
2 and effect.

3 Section 9. This Ordinance shall become effective
4 immediately upon its passage and adoption.

5

6 PASSED ON FIRST READING THIS _____ day of _____ 2023.

7 PASSED ON SECOND READING THIS _____ day of _____ 2023.

8

9

10

11

12 ATTEST:

13

14 _____
15 JENNIFER M. JOHNSON
CITY CLERK

_____ MAYOR ANTHONY N. CAGGIANO

16

RECORD OF VOTE - 1ST READING RECORD OF VOTE - 2ND READING

17

18 Arserio _____
19 Ruzzano _____
20 Caggiano _____
21 Schwartz _____
22 Simone _____

Arserio _____
Ruzzano _____
Caggiano _____
Schwartz _____
Simone _____

23

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