

**ORDINANCE NO. 615**

**AN ORDINANCE OF THE TOWN OF OCEAN RIDGE, FLORIDA, AMENDING ITS CODE OF ORDINANCES BY AMENDING CHAPTER 1, "GENERAL PROVISIONS", SECTION 1-3, "DEFINITIONS" TO CLARIFY THE DEFINITION OF "FAMILY"; CHAPTER 67, "BUILDINGS AND BUILDING REGULATIONS", ARTICLE VII, "BUILDING STANDARDS", BY CREATING DIVISION 3, "OCCUPANCY LIMITATIONS" TO CLARIFY SUCH LIMITATIONS AND TO PROVIDE FOR A REASONABLE ACCOMMODATION PROCESS FOR PERSONS WITH DISABILITIES AND/OR A HANDICAP; PROVIDING FOR CODIFICATION, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Ocean Ridge, Florida (the "Town") is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

**WHEREAS**, the Town Commission wishes to clarify the existing definition of "family" and its application; and

**WHEREAS**, pursuant to 42 U.S.C. Section 3604(f)(3)(b) the Town is required to provide a reasonable accommodation process for people with disabilities and/or a handicap to afford such persons equal opportunity to use and enjoy a dwelling; and

**WHEREAS**, the Town Commission has determined that the enactment of this ordinance is for a proper municipal purpose and in the best interests of the residents of the Town.

**NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF OCEAN RIDGE, FLORIDA, AS FOLLOWS:**

**SECTION 1 – Findings of Fact:** The **WHEREAS** clauses set forth above are adopted herein as findings of fact.

**SECTION 2 – Amendment:** Chapter 1 "General Provisions", Section 1-3, "Definitions", is hereby amended as follows:

....

*Family* means one or more persons occupying a single dwelling unit; provided that, unless all members are related by blood, legal adoption or marriage, no such family shall contain over five persons; but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a family. Any person under the age of 18 years whose legal custody has been awarded to the State Department of Health and Rehabilitative Services or to a child-placing agency licensed by the Department, or who is otherwise considered to be a foster

child under the laws of the state, and who is placed in foster care with a family, shall be deemed to be related to and a member of the family for the purposes of this definition.

....

**SECTION 3 – Amendment:** Chapter 67 “Buildings and Building Regulations”, Article VII “Building Standards”, is hereby amended by creating Division 3, “Occupancy limitations”, as follows:

**DIVISION 3. – OCCUPANCY LIMITATIONS**

**Sec. 67-205. – Occupancy limitations.**

That no more than five (5) unrelated persons shall reside in any dwelling unit as further defined in the definition of “family” as provided in Section 1-3 of this Code.

**Sec. 67-206. - 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 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 may be either oral or written in accordance with procedures set forth by the Town Clerk. If in writing it 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.

(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 applicant at the time of the submission of the medical information, may request that the Town 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 thereafter use its best efforts to provide written notice to the 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 which the applicant has previously requested be treated as confidential by the Town. 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 against any other action seeking to compel the production of public records or to incur any legal or other expenses in connection therewith, and may produce the records to the extent the Town determines the records are not exempt from the Public Records Act, or to comply with any judicial or administrative order without prior notice to the applicant.

(d) When a reasonable accommodation request has been submitted to the Town clerk's office, it will be scheduled for a quasi-judicial hearing before the special magistrate appointed by the Town Commission, which shall be the same special magistrate appointed to hear code enforcement cases, unless the Town Commission specifically appoints a special magistrate to hear the reasonable accommodation requests. The special magistrate may: (1) grant the reasonable accommodation request in full; (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. Any denial of a reasonable accommodation request shall be in writing, and shall state the grounds for the denial. All decisions of the special magistrate on a request for reasonable accommodation shall be in writing and shall give the applicant notice of the applicant's right to appeal. The written decision of the special magistrate shall be sent to the applicant (i.e., the disabled individual or his/her authorized agent, attorney, or representative) by regular mail at the address specified for notice by the applicant on the application form.

(e) 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; (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.

(f) If denied an applicant may seek review, by writ of certiorari to the Fifteenth Judicial Circuit, of the special magistrate's written decision on a reasonable accommodation request within 30 days after the date on which the written decision is rendered.

(g) 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 special magistrate. 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.

(h) 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.

(i) 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.

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

**SECTION 4 - Codification:** The ordinance shall be codified in the Code of Ordinances of the Town of Ocean Ridge, Florida.

**SECTION 5 - Repeal of Conflicting Ordinances:** All Ordinances, Resolutions or parts of Ordinances and Resolutions in conflict herewith are hereby repealed.

**SECTION 6 - Severability:** If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this Ordinance.

**SECTION 7 - Effective Date:** This Ordinance shall become effective immediately upon adoption.

FIRST READING this 12th day of September, 2016.

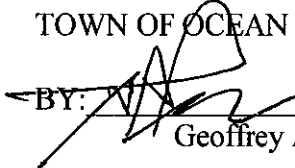
SECOND AND FINAL READING this 7th day of November, 2016.

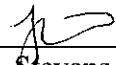
Commissioner Bonfiglio offered the foregoing Ordinance, and moved its adoption. The motion was seconded by Commissioner Coz and upon being put to a vote, the vote was as follows:

GEOFFREY A. PUGH, Mayor	<u>Yea</u>
RICHARD LUCIBELLA, Vice Mayor	<u>Absent</u>
GAIL ADAMS AASKOV, Commissioner	<u>Yea</u>
JAMES BONFIGLIO, Commissioner	<u>Yea</u>
STEVE COZ, Commissioner	<u>Yea</u>

The Mayor thereupon declared this Ordinance approved and adopted by the Town Commission of the Town of Ocean Ridge, Florida, on second reading, this 7th day of November, 2016.

TOWN OF OCEAN RIDGE, FLORIDA

BY:  \_\_\_\_\_  
Geoffrey A. Pugh, Mayor

ATTEST:  \_\_\_\_\_  
Tracey L. Stevens, Town Clerk