

ORDINANCE NO. 2017 - 007

AN ORDINANCE OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, AMENDING THE TOWN OF SOUTHWEST RANCHES UNIFIED LAND DEVELOPMENT CODE ("ULDC"), ARTICLE 10 ENTITLED, "DEFINITIONS" TO AMEND THE DEFINITION OF THE TERM "FAMILY"; CREATING A NEW ARTICLE 141 ENTITLED, "REASONABLE ACCOMMODATION PROCEDURES"; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Southwest Ranches Town Council ("Town Council") wishes to amend the ULDC to enact a procedure for making reasonable accommodations consistent with the intent of the federal Fair Housing Act and federal Americans with Disabilities Act; and

WHEREAS, the Town Council finds that the definition of the term "family" in the ULDC should be amended consistent with such federal legislation; and

WHEREAS, the Town Council, sitting as the Local Planning Agency, has reviewed the contents of this Ordinance at a duly noticed public hearing on June 22, 2017, and has issued its recommendation to the Town Council, finding that the Ordinance is consistent with the adopted comprehensive plan.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA:

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

Section 2. Section 010-030, "Terms defined" is hereby amended as follows:

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1 Family. The term "family" means a person living alone, or any
2 number of the following groups persons—living together as a single,
3 nonprofit housekeeping unit and sharing common living, sleeping, cooking,
4 and eating facilities; ~~whether legally related to each other or not.~~

5 (a) Any number of people related by blood, marriage, adoption,
6 guardianship, or other duly authorized custodial relationship; and their
7 gratuitous guests and domestic workers.

8 (b) Three (3) unrelated people;

9 (c) Two (2) unrelated people and any children related to either of
10 them; or,

11 (d) Not more than six (6) people who residents of a "community
12 residential home" as defined in Chapter 419, F.S.

13 (e) Any of the above groups ~~The persons constituting a family~~ may
14 also include gratuitous guests and domestic ~~servants~~workers, but shall not
15 include paying guests. For the purpose of this provision, a "domestic
16 worker" is a person who is employed and paid to perform duties within their
17 employer's private household. Examples of domestic workers include
18 maids, cooks, housekeepers, butlers, nannies, and caregivers.

19 **Section 3:** A new Article 141 entitled, Reasonable Accommodation
20 Procedures" is hereby created, as follows:

21 **ARTICLE 141. REASONABLE ACCOMMODATION PROCEDURES.**

22 **Sec. 141-010. Applicability.**

23 This article implements the policy of the Town of Southwest Ranches
24 for processing of requests for reasonable accommodation to its
25 ordinances, rules, policies, and procedures for persons with disabilities
26 as provided by the Federal Fair Housing Amendments Act (42 U.S.C.
27 3601, et seq.) ("FHA") and Title II of the Americans with Disabilities
28 Act (42 U.S.C. Section 12131, et seq.) ("ADA"). For purposes of this
29 article, a "disabled" individual or person is an individual that qualifies
30 as disabled and/or handicapped under the FHA and/or ADA. Any
31 person who is disabled (or qualifying entities) may request a
32 reasonable accommodation with respect to the town's land use or
33 zoning laws, rules, policies, practices and/or procedures as provided

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1 by the FHA and the ADA pursuant to the procedures set out in this
2 article.

3 **Sec. 141-020. Procedure.**

4 (A) A request by an applicant for reasonable accommodation under
5 this article shall be made in writing by completion of a reasonable
6 accommodation request form, which form shall be maintained by
7 (and shall be submitted to) the town administrator. The
8 reasonable accommodation form shall contain such questions
9 and requests for information as are necessary for processing the
10 reasonable accommodation request.

11 (B) Should the information provided by the disabled individual to the
12 town include medical information or records, including records
13 indicating the medical condition, diagnosis or medical history of
14 the disabled individual, such individual may, at the time of
15 submitting such medical information, request that the town, to
16 the extent allowed by law, treat such medical information as
17 confidential information of the disabled individual. The town shall
18 thereafter endeavor to provide written notice to the disabled
19 individual, and/or their representative, or any request received
20 by the town for disclosure of the medical information or
21 documentation which the disabled individual has previously
22 requested be treated as confidential by the town. The town will
23 cooperate with the disabled individual, to the extent allowed by
24 law, in actions initiated by such individual to oppose the
25 disclosure of such medical information or documentation, but the
26 town shall have no obligation to initiate, prosecute or pursue any
27 such action, or to incur any legal or other expenses (whether by
28 retention of outside counsel or allocation of internal resources) in
29 connection therewith, and may comply with any judicial order
30 without prior notice to the disabled individual.

31 (C) The town administrator shall have the authority to consider and
32 act on requests for reasonable accommodation, after notice and
33 public hearing to receive comments, input and information from
34 the public, provided, however, the town administrator shall not
35 be required to render a decision at said public hearing. Once a
36 reasonable accommodation request form has been completed

1 and submitted to the town administrator, he or she shall have
2 forty-five (45) days from the date of receipt of the completed
3 application to request additional information pursuant to subsec.
4 (D), or issue a written determination and may, in accordance with
5 federal law, (1) grant the accommodation request, (2) grant a
6 portion of the request and deny a portion of the request, and/or
7 impose conditions upon the grant of the request, or (3) deny the
8 request, in accordance with federal law.

9 (1) Any such denial shall be in writing and shall state the
10 grounds therefore.

11 (2) All written determinations shall give notice of the right to
12 appeal.

13 (3) The notice of determination shall be sent to the requesting
14 party (i.e. the disabled individual or his/her representative)
15 by certified mail, return receipt requested.

16 (D) If reasonably necessary to reach a determination on the request
17 for reasonable accommodation, the town administrator may,
18 prior to the end of said forty-five (45)-day period, request
19 additional information from the requesting party, specifying in
20 sufficient detail the additional information that is required. The
21 requesting party shall have fifteen (15) days after the date of the
22 request for additional information to provide the requested
23 information.

24 (1) In the event a request for additional information is made,
25 the forty-five (45)-day period to issue a written
26 determination shall no longer be applicable, and the town
27 administrator shall issue a written determination pursuant
28 to subsec. (C) within thirty (30) days after receipt of the
29 additional information.

30 (2) If the requesting party fails to provide the requested
31 additional information within said fifteen (15)-day period,
32 the town administrator shall issue a written notice advising
33 that the requesting party had failed to timely submit the
34 additional information and therefore the request for
35 reasonable accommodation shall be deemed abandoned
36 and/or withdrawn, and no further action by the town with

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1 regard to said reasonable accommodation request shall be
2 required.

3 (E) In determining whether the reasonable accommodation request
4 shall be granted or denied, the requesting party shall be required
5 to establish that they are protected under the FHA and/or ADA
6 by demonstrating that they are handicapped or disabled, as
7 defined in the FHA and/or ADA. Although the definition of
8 disability is subject to judicial interpretation, for purposes of this
9 ordinance the disabled individual must show: (i) a physical or
10 mental impairment which substantially limits one or major life
11 activities; (ii) a record of having such impairment; or (iii) that
12 they are regarded as having such impairment. Next, the
13 requesting party will have to demonstrate that the proposed
14 accommodations being sought are reasonable and necessary to
15 afford handicapped/disabled persons equal opportunity to use
16 and enjoy housing. The foregoing (as interpreted by the courts)
17 shall be the basis for a decision upon a reasonable
18 accommodation request made by the town administrator or by
19 the town council in the event of an appeal.

20 (F) Within thirty (30) days after the town administrator's
21 determination on a reasonable accommodation request is mailed
22 to the requesting party, such applicant may appeal the decision.
23 All appeals shall contain a statement containing sufficient detail
24 of the grounds for the appeal. Appeals shall be to the town
25 council who shall, after public notice and a public hearing, render
26 a determination as soon as reasonably practicable, but in no
27 event later than sixty (60) days after an appeal has been filed.

28 (G) There shall be no fee imposed by the town in connection with a
29 request for reasonable accommodation under this section or an
30 appeal of a determination on such request to the town council,
31 and the town shall have no obligation to pay a requesting or
32 appealing party's attorney's fees or costs in connection with the
33 request, or an appeal.

34 (H) While an application for reasonable accommodation, or appeal or
35 a determination of same, is pending before the town, the town
36 will not enforce against the applicant the particular ordinance,

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1 rule, policy, or procedure from which reasonable accommodation
2 has been requested.

3 (I) The following general provisions shall be applicable:

4 (1) The town shall display a notice on the town's public notice
5 bulletin board advising the public that disabled individuals
6 and qualifying entities may request reasonable
7 accommodation as provided herein.

8 (2) The town shall maintain copies available for review in the
9 town clerk's office,

10 (3) A disabled individual may apply for a reasonable
11 accommodation on his/her own behalf or may be
12 represented at all stages of the reasonable accommodation
13 process by a person designated by the disabled individual.

14 (4) The town shall provide such assistance and accommodation
15 as is required pursuant to FHA and ADA in connection with
16 a disabled person's request for reasonable accommodation,
17 including, without limitation, assistance with reading
18 application questions, responding to questions, completing
19 the form, filing an appeal; and appearing at a hearing, etc.
20 to ensure the process is accessible.

21 **Section 4: Codification.** The Town Clerk shall cause this ordinance to
22 be codified as a part of the ULDC during the next codification update cycle.

23 **Section 5: Conflicts.** All Ordinances or parts of Ordinances, Resolutions or
24 parts of Resolutions in conflict herewith, be and the same are hereby repealed to the
25 extent of such conflict.

26 **Section 6: Severability.** If any word, phrase, clause, sentence or section of
27 this Ordinance is, for any reason, held unconstitutional or invalid, the invalidity thereof
28 shall not affect the validity of any remaining portions of this Ordinance.

29 **Section 7: Effective Date.** This Ordinance shall take effect immediately upon
30 passage and adoption.

31
32 [Signatures on Following Page]

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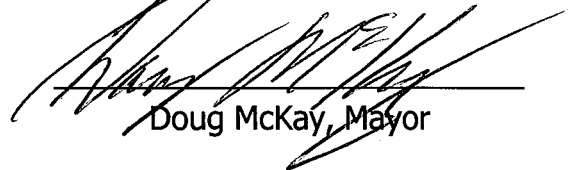
1 **PASSED ON FIRST READING** this 22nd day of June, 2017 on a motion
2 made by Vice Mayor Breitkreuz and seconded by Council member Schroeder.


3 **PASSED AND ADOPTED ON SECOND READING** this 27th day of July,
4 2017, on a motion made by Vice Mayor Breitkreuz and
5 seconded by Council Member Fisikelli

6

7	McKay	<u>Yes</u>	Ayes	<u>5</u>
8	Breitkreuz	<u>Yes</u>	Nays	<u>0</u>
9	Fisikelli	<u>Yes</u>	Absent	<u>0</u>
10	Jablonski	<u>Yes</u>	Abstaining	<u>0</u>
11	Schroeder	<u>Yes</u>		
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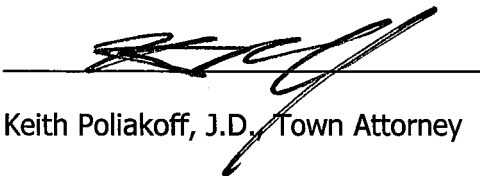

Doug McKay, Mayor

15 ATTEST:
16 
17 _____

18 Russell Muñiz, Assistant Town Administrator/Town Clerk

19

20 Approved as to Form and Correctness:

21 
22 _____
23 Keith Poliakoff, J.D., Town Attorney

24 114251715.1
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