

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

ABILITY HOUSING, INC.,)	
)	
Plaintiff,)	
)	Case No. 3:15-cv-1380-TJC-PDB
v.)	
)	
CITY OF JACKSONVILLE,)	
)	
Defendant.)	
)	
DISABILITY RIGHTS FLORIDA, INC.,)	
)	
Plaintiff,)	
)	Case No. 3:15-cv-1411-TJC-PDB
v.)	
)	
CITY OF JACKSONVILLE,)	
)	
Defendant.)	
)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Case No. 3:16-cv-1563-TJC-PDB
v.)	
)	
CITY OF JACKSONVILLE, FLORIDA)	
)	
Defendant.)	
)	

**CONSENT DECREE BETWEEN THE UNITED STATES OF AMERICA AND
THE CITY OF JACKSONVILLE, FLORIDA**

The United States of America alleges as follows:

NATURE OF ACTION

1. The United States initiated this action to enforce the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended (“FHA”), 42 U.S.C. §§ 3601 *et seq.*, and Titles II and V of the Americans with Disabilities Act of 1990, as amended (“ADA”), 42 U.S.C. §§ 12131–12134, 12203, and their implementing regulation, 28 C.F.R. Part 35. In its Complaint, the United States alleges that the City of Jacksonville, Florida (“City”) discriminated on the basis of disability, in violation of the FHA and ADA, by preventing Ability Housing, Inc. (“Ability Housing”) from developing permanent supportive housing for people with disabilities within its Springfield Historic District (“Springfield”) and by retaliating against Ability Housing after it made a complaint under the FHA and ADA.

2. The United States alleges in the Complaint that the City’s application of its Zoning Code to Ability Housing has denied or has otherwise made housing unavailable because of disability, in violation of the FHA, 42 U.S.C. § 3604(f)(1); that the City denied Ability Housing’s requests for a reasonable accommodation to the Zoning Code when such accommodation may have been necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling, in violation of 42 U.S.C. § 3604(f)(3)(B); and that the City retaliated against Ability Housing because it made a complaint under the FHA, in violation of 42 U.S.C. § 3617.

3. The United States alleges that the City’s actions constitute a denial of rights protected by the FHA to a group of persons, which raises an issue of general public importance, in violation of 42 U.S.C. § 3614(a).

4. The United States also alleges that the City violated Title II of the ADA, 42 U.S.C. § 12132, by excluding individuals with disabilities from participation in, and by denying them the benefits, services, programs, or activities of a public entity, as well as by failing to make reasonable modifications to its policies, practices, or procedures; and that the City violated Title V of the ADA, 42 U.S.C. § 12203, by discriminating against Ability Housing because it opposed an act or practice made unlawful by Title II of the ADA.

5. On November 18, 2015, Ability Housing filed a federal lawsuit in this Court under the FHA and ADA against the City (Case No. 3:15-CV-1380) alleging claims related to those alleged in the United States' Complaint. Disability Rights Florida, an advocate for people with disabilities throughout Florida (together with Ability Housing, "the Private Plaintiffs"), also filed suit on November 25, 2015 (Case No. 3:15-CV-1411). In the two suits, which are consolidated with the United States' Complaint, the Private Plaintiffs and the City reached a settlement agreement resolving the Private Plaintiffs' complaints ("Private Settlement Agreement"). The Private Settlement Agreement appears as Appendix A. As stipulated in the Private Settlement Agreement, within 10 days of the City's fulfillment of its obligations under the Private Settlement Agreement, the Private Plaintiffs will dismiss with prejudice their cases (Case Nos. 3:15-CV-1380 and 3:15-CV-1411).

6. The United States and the City have voluntarily agreed to resolve the United States' claims against the City by entering into this Consent Decree ("Decree"), as indicated by the signatures below and by the ratification of the Decree by the Jacksonville

City Council on May 23, 2017, through Ordinance No. 2017-68-E. Together with the Private Settlement Agreement, as incorporated herein, this Decree is intended to effect a comprehensive settlement of the United States' and the related claims of the Private Plaintiffs.

7. The City expressly denies any wrongdoing as alleged by the United States in the Complaint. It is understood and acknowledged that this Decree does not constitute an admission by the City of any violation of the FHA, ADA, or any other law.

Therefore, it is hereby ORDERED, ADJUDGED, AND DECREED as follows:

JURISDICTION

8. This Court has jurisdiction over this action, and may grant the relief sought herein, pursuant to 28 U.S.C. §§ 1331 and 1345; 42 U.S.C. § 3614(a); 42 U.S.C. §§ 12132-12133, 12203(c); and 28 U.S.C. §§ 2201 and 2202.

GENERAL INJUNCTION AND NONDISCRIMINATION PROVISIONS

9. The City, its agents, employees, successors, and all persons in active concert or participation with it, shall not:

- a. Deny, or otherwise make unavailable, a dwelling to a buyer or renter because of a disability of that buyer or renter, of any person residing in or intending to reside in such dwelling, or of any person associated with such buyer or renter;
- b. Adopt, maintain, enforce, or implement any zoning or land use laws, regulations, policies, procedures or practices that discriminate on the basis of disability in violation of the FHA and the ADA;

- c. Refuse to make reasonable accommodations¹ in the application of rules, policies, practices or services when such accommodations may be necessary to afford a person or persons with disabilities an equal opportunity to use and enjoy a dwelling; or
- d. Coerce, intimidate, threaten, or interfere with persons in the exercise of or enjoyment of, or on account of their having exercised or enjoyed, or on account of their having aided or encouraged any other person in the exercise of enjoyment of, any right granted or protected by the FHA or ADA.

SPECIFIC INJUNCTIVE RELIEF

10. As stipulated in the Private Settlement Agreement, the City shall rescind the May 29, 2014 Written Interpretation related to Ability Housing within 10 days of the City Council's approval of the Private Settlement Agreement referenced in Paragraph 5, above.

11. The City shall not deem any entity or individual(s) ineligible to receive City funds on the basis that the entity or individual(s) complained, in any manner and including but not limited to filing a lawsuit or pursuing litigation, that the City discriminated against the entity, individuals whom the entity supports, or the individual(s), in violation of their civil rights. Ability Housing is therefore eligible to apply for, compete for, and to receive Jacksonville Journey and any other City funds

¹ In this Decree, the term "reasonable accommodation," *see* 42 U.S.C. § 3604(f)(3)(B), also includes "reasonable modification," as used in the implementing regulation for Title II of the ADA, 28 C.F.R. § 35.130(b)(7).

administered by the City, the Local Initiative Support Corporation (“LISC”), or by any other entity for which Ability Housing is otherwise qualified to receive notwithstanding its current litigation with the City in Case No. 3:15-CV-1380 and Case No. 2014-CA-8148 in the Circuit Court, Fourth Judicial District, in and for Duval County, Florida.

12. As stipulated in the Private Settlement Agreement, and as extended by agreement of the parties, on May 23, 2017, the City amended its Zoning Code, Chapter 656 of the City of Jacksonville Ordinance Code, by passing Ordinance No. 2017-36-E, which appears in Appendix B. Among other changes, these amendments make clear that the permanent supportive housing at issue in the Complaint is properly characterized as a multiple-dwelling use and is permitted wherever multiple-family dwellings are permitted. The amendments generally include changes to the following:

- a. Part 1 (General Provisions), Subpart A (Basic Provisions) to recognize and require construction of the Zoning Code consistent with civil rights laws;
- b. Part 1 (General Provisions), Subpart B (Administration) to create a procedure for persons with disabilities to request reasonable accommodations from provisions of the Zoning Code;
- c. Part 3 (Schedule of District Regulations), Subpart F (Planned Unit Development) to prohibit the use of planned unit developments to discriminate or violate civil rights;
- d. Part 3 (Schedule of District Regulations), Subpart I (Springfield Zoning Overlay and Historic District Regulations) to remove prohibitions on housing for people with disabilities, allow group care homes by exception

in the RMD-S district, and to allow residential treatment facilities as allowable uses by exception in the CCG-S district; and

- e. Part 16 (Definitions) to amend definitions to make clear that the permanent supportive housing at issue in the Complaint is properly characterized as a multiple-dwelling use and is permitted wherever multiple-family dwellings are permitted; to add definitions for supportive services and reasonable accommodations; and to ensure that the definitions reflect that a resident's receipt of supportive services in a dwelling unit does not change the dwelling unit into another type of use.

REASONABLE ACCOMMODATION POLICY

13. As stipulated in the Private Settlement Agreement and referenced in Paragraph 12(b), the City has amended its Zoning Code, as detailed in Ordinance No. 2017-36-E, to create a process for requesting reasonable accommodations from the Zoning Code. *See* Appendix B. Within sixty (60) days of the entry of this Decree, the City shall also submit to the United States a written policy that details the process by which persons may request reasonable accommodations or modifications on the basis of disability from the City's zoning, land use, and code requirements ("Reasonable Accommodation Policy" or "Policy"). Prior to its implementation, the Policy must be approved by the United States. The Policy shall comply with the FHA and the ADA and shall include the following provisions:

- a. The City shall provide a description of where and how the City will accept and process requests for accommodations in its rules, policies, practices, or in the provision of its services;
- b. The City shall acknowledge all requests for reasonable accommodations, in writing, within fifteen (15) days of the City's receipt of an oral or written request;
- c. The City shall provide written notification to those requesting a reasonable accommodation of the decision regarding their request for accommodation within the timeframes established in Ordinance No. 2017-36-E;
- d. The City shall retain records of all oral and written reasonable accommodation and modification requests, and the City's responses thereto, including (i) the name, address, and telephone number of the person making the request; (ii) the date on which the request was received; (iii) the nature of the request; and (iv) the final written decision regarding the request; and
- e. The City shall not impose any fees or costs for requesting a reasonable accommodation or modification, or otherwise retaliate against any person who has exercised his or her right under the Fair Housing Act to make one or more reasonable accommodation requests.

14. Within ten (10) days of the approval of the Reasonable Accommodation Policy by the United States and throughout the term of this Decree, the City shall implement the Policy. The City shall post and publicly display the Policy on the City's

website, and at the offices of the City with responsibility for administration and enforcement of the City's zoning, land use, and code requirements.

COMPLIANCE OFFICER

15. Within thirty (30) days of the entry of this Decree, the City shall designate an individual as the Fair Housing Compliance Officer ("FHCO"). The FHCO shall have the responsibility to receive complaints of alleged housing discrimination and disability discrimination against the City; serve as a resource to the City and its officers, elected and appointed officials, employees, and agents on fair housing and disability rights; and in consultation with the City's attorneys, the Office of General Counsel, coordinate the City's compliance with this Decree.

16. The FHCO shall be designated to receive and review all complaints of housing discrimination and disability discrimination made against the City or any officer, elected or appointed official, employee, or agent of the City. If complaints are made verbally, the FHCO shall make a contemporaneous written record of those complaints.

17. The FHCO shall maintain copies of this Decree, the Reasonable Accommodation Policy, and the HUD Complaint form and HUD pamphlet entitled "Are you a victim of housing discrimination?" (HUD official forms 903 and 903.1, respectively) and make these materials available to anyone, upon request, without charge, including all persons making fair housing complaints to the FHCO.

18. The FHCO shall report to the City every three months on activities taken in compliance with this Decree.

FAIR HOUSING AND ADA TRAINING

19. Within ninety (90) days of the entry of this Decree, the City shall provide training(s) on the requirements of the Decree, the FHA (in particular, those provisions that relate to disability discrimination), and the ADA (in particular, the ADA's application to zoning). The training(s) shall be provided to all City officers, elected and appointed officials, and employees who have duties related to the planning, zoning, permitting, construction, code enforcement, or occupancy of residential housing, including but not limited to professional staff and employees of the Planning and Development Department, the Mayor and members of the City Council, and members of the Planning Commission and Certificate of Use Board. The training(s) shall be conducted in accordance with the following:

- a. The training(s) shall be conducted by a qualified third party or parties, subject to the approval of the United States. The trainer(s) shall not be connected to the City or its officers, elected or appointed officials, employees, agents or counsel. No fewer than sixty (60) days before the date of each training under this Paragraph, the City shall submit to counsel for the United States the name of the person(s) or organization(s) proposed to provide the training, together with copies of the professional qualifications of such person(s) or organization(s), and copies of all materials to be used in the training.
- b. Any expenses associated with the training(s) shall be borne by the City.
- c. The training(s) shall be video-recorded and the City shall maintain copies

of the written materials provided for each training. Each newly elected, appointed, or hired individual covered by this Paragraph shall first receive training within thirty (30) days after the date he or she enters office or commences service or employment, either (1) by attending the next regularly scheduled live training, if it occurs within the thirty (30) day period, or (2) by viewing the video recording of the most recent live training and receiving copies of any written materials provided for that training.

- d. The City shall provide a copy of this Decree to each person required to receive the training(s).

20. The City shall require each trainee to execute a certification confirming: (i) the trainee's attendance; (ii) the date of the training; and (iii) the trainee's receipt and comprehension of the Decree. The Certification of Training and Receipt of Consent Decree appears as Appendix C to this Decree. All trainees shall complete the certifications at the conclusion of each training session.

REPORTING AND RECORDKEEPING

21. Within one hundred (100) days of the entry of this Decree, the City shall submit all executed copies of the Certification of Training and Receipt of Consent Decree (Appendix C) described in Paragraph 20.²

² The City shall send all documents, notices, and other communications required by the Decree to be sent to the United States via regular U.S. mail to:

Chief, Housing and Civil Enforcement Section
Civil Rights Division
United States Department of Justice
950 Pennsylvania Ave., NW – G Street

22. The City shall prepare compliance reports twice annually detailing all actions the City has taken to fulfill its obligations under this Decree since the last compliance report. The City shall submit its first report to the United States within six (6) months of entry of the Decree, and subsequent reports every six (6) months thereafter for the duration of the Decree, except that the final report shall be delivered to the United States not less than sixty (60) days prior to the expiration of this Decree. The City shall include in the compliance reports, at a minimum, the following information:

- a. The name, address, and title of the employee or official serving as the Fair Housing Compliance Officer referred to in Paragraph 15;
- b. A summary of each zoning or land-use request or application, including requests for reasonable accommodations, related to housing for persons with disabilities, indicating: (i) the date of the application; (ii) the applicant's name; (iii) the applicant's current street address; (iv) the street address of the subject property or proposed housing; (v) the City's decision(s) regarding the matter, including any decision on appeal; (vi) the reasons for each decision, including a summary of the facts upon which the City relied; and (vii) complete copies of any minutes and audio or video recordings from all meetings or hearings discussing the zoning request or application;

Washington, DC 20530
Attn: DJ# 175-17M-513

- c. Copies of any Certifications of Training and Receipt of Consent Decree (Appendix C) described in Paragraph 20, above, that are signed after the preceding compliance report was issued; and
- d. Any complaints of housing discrimination or disability discrimination by the City, either received by the FHCO pursuant to Paragraph 16 or by another City employee or official, including a copy of the complaint, any documents filed with the complaint, and any written response to the complaint by the City. If the complaint has not been resolved, the City shall report any efforts the City undertook or plans to undertake to resolve the complaint.

23. Within thirty (30) days of adopting any amendments or modifications to the Zoning Code or to other City rules, laws, or ordinances that may detrimentally or directly affect housing for persons with disabilities, the City shall send copies of the enacted amendments or modifications to the United States. Any amendment or modification must be consistent with Paragraph 12 of this Decree.

24. The City shall retain all records relating to any provision of this Decree. Counsel for the United States shall have the opportunity to inspect and copy any such records after giving reasonable notice to counsel for the City.

COMPENSATION OF AGGRIEVED PARTIES

25. Within thirty (30) days of the City Council's approval of the Private Settlement Agreement, the City shall pay Ability Housing and Disability Rights Florida the amounts agreed upon in the Private Settlement Agreement (Appendix A).

26. As stipulated in the Private Settlement Agreement, within one (1) year of the Private Plaintiffs' dismissal of their cases (Case Nos. 3:15-CV-1380 and 3:15-CV-1411), the City shall establish and award a 1.5 million dollar (\$1,500,000) grant for the development of Permanent Supportive Housing within the City for persons with disabilities. The grant shall be awarded to a qualified developer through a competitive grant process. Ability Housing shall be eligible to participate in the grant process and to receive some or all of the grant award.

CIVIL PENALTY

27. Within ten (10) days of the entry of this Decree, the City shall pay twenty-five thousand dollars (\$25,000) to the United States Treasury as a civil penalty pursuant to 42 U.S.C. § 3614(d)(1)(C) to vindicate the public interest. The payment shall be in the form of an electronic fund transfer pursuant to written instructions to be provided by the United States.

28. In the event that the City, its agents, or its employees engage in any future violation(s) of the FHA, such violation(s) shall constitute a "subsequent violation" under 42 U.S.C. § 3614(d)(1)(C)(ii).

DURATION

29. This Decree shall remain in effect for a period of five (5) years after its entry. The Court shall retain jurisdiction over the action for the duration of the Decree for the purpose of enforcing its provisions and terms. The United States may move the Court to extend the duration of the Decree in the interests of justice.

30. Any time limits for performance imposed by this Decree may be extended by mutual written agreement of the parties.

ENFORCEMENT

31. The parties shall endeavor in good faith to resolve informally any differences regarding interpretation of and compliance with this Decree prior to bringing such matters to the Court for resolution. However, in the event of a failure by the City to perform in a timely manner any act required by this Decree or otherwise to act in conformance with any provisions thereof, the United States may move this Court to impose any remedy authorized by law or equity. Remedies include, but are not limited to, findings of contempt, an order requiring performance of such act or deeming such act to have been performed, and an award of any damages, costs, and reasonable attorneys' fees that may have been occasioned by the violation or failure to perform.

COSTS AND FEES

32. The parties will bear their own costs and fees associated with this litigation.

TERMINATION OF LITIGATION HOLD

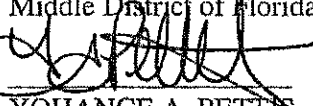
33. The parties agree that, as of the date of the entry of this Consent Decree, litigation is not "reasonably foreseeable" concerning the matters described above. To the extent that either party previously implemented a litigation hold to preserve documents, electronically stored information (ESI), or things related to the matters described above, the party is no longer required to maintain such litigation hold. Nothing in this Paragraph relieves either party of any other obligations imposed by this Consent Decree.

DONE AND ORDERED at Jacksonville, Florida this _____ day of
_____, 2017.

TIMOTHY J. CORRIGAN
United States District Judge


For Plaintiff United States:

Dated: 6/1/17

W. STEPHEN MULDROW
Acting United States Attorney
Middle District of Florida

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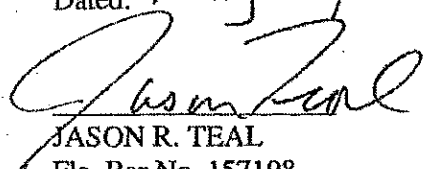
T.E. WHEELER, II
Acting Assistant Attorney General
Civil Rights Division

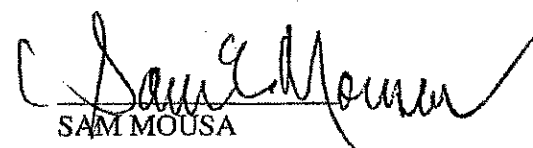
SAMEENA SHINA MAJEED
Chief


MICHAEL S. MAURER
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ABIGAIL B. MARSHAK
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For Defendant City of Jacksonville:

Dated: May 31, 2017


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Fla. Bar No. 157198
Office of General Counsel
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SAM MOUSA
Chief Administrative Officer
Office of Mayor Lenny Curry
City of Jacksonville, Florida

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APPENDIX A

[Private Settlement Agreement]

(Pages 12-42 of the Private Settlement Agreement – the substance of which is included in this Consent Decree’s Appendices – are omitted from Appendix A to avoid duplication)

Amended 5/23/17

1 Introduced by the Council President at the request of the Office of
2 General Counsel and amended on the Floor of Council:
3
4

5 **ORDINANCE 2017-69-E**

6 AN ORDINANCE APPROPRIATING \$425,000 FROM
7 GENERAL FUND/GENERAL SERVICE DISTRICT FUND
8 BALANCE TO PROVIDE FUNDING FOR THE SETTLEMENT
9 OF TWO SEPARATE BUT CONSOLIDATED FEDERAL
10 LITIGATION MATTERS; APPROVING THE SETTLEMENT
11 OF CLAIMS, INCLUDING CLAIMS FOR ATTORNEY'S
12 FEES AND COURT COSTS, IN TRIAL PROCEEDINGS
13 ARISING FROM *ABILITY HOUSING OF NORTHEAST*
14 *FLORIDA, INC. V. THE CITY OF JACKSONVILLE,*
15 *CASE NO. 3:15-CV-1380-J-32PDB,* UNITED STATES
16 DISTRICT COURT FOR THE MIDDLE DISTRICT OF
17 FLORIDA AND *DISABILITY RIGHTS FLORIDA, INC. V.*
18 *THE CITY OF JACKSONVILLE, CASE NO. 3:15-CV-*
19 *1411-TJC-JRK,* UNITED STATES DISTRICT COURT FOR
20 THE MIDDLE DISTRICT OF FLORIDA, FOURTH
21 JUDICIAL CIRCUIT IN AND FOR DUVAL COUNTY,
22 FLORIDA, AS INITIATED BY B.T. 17-059;
23 PROVIDING FOR AN EFFECTIVE DATE.
24

25 **WHEREAS**, Ability Housing of Northeast Florida, Inc. ("Ability
26 Housing") and Disability Rights Florida ("DRF") filed the above-
27 styled actions against the City of Jacksonville ("the City")
28 (collectively, "the Parties"), claiming violations of the Fair
29 Housing Act and the Americans with Disabilities Act ("the
30 Litigation"); and

31 **WHEREAS**, the Litigation was consolidated into one case and was

Amended 5/23/17

1 scheduled for a two-week jury trial commencing in February 2017;
2 and

3 **WHEREAS**, the Parties met in an effort to resolve the
4 Litigation prior to trial due to the uncertainties associated with
5 litigation and the potential ramifications of an adverse ruling;
6 and

7 **WHEREAS**, as a result of the discussions, the Parties have
8 reached an agreement in principle as to resolve the contested
9 issues in the Litigation in the form and pursuant to the terms of
10 that certain "*Settlement Agreement and Release*" attached hereto as
11 **Second Revised Exhibit 1**, labeled as "Second Revised Exhibit 1, 2nd
12 Rev Agmt, May 23, 2017 - Floor"; and

13 **WHEREAS**, Section 112.307 of the Jacksonville Ordinance Code
14 requires City Council's approval of a settlement where, as here,
15 its proposed value exceeds \$50,000.00; and

16 **WHEREAS**, subject to and dependent upon the passage of City
17 Council legislation adopting the *Settlement Agreement and Release*
18 and appropriating funds as therein contemplated would render
19 additional Federal Court proceedings unnecessary and avoid
20 compounding costs and burden otherwise incurred by the Parties; now
21 therefore

22 **BE IT ORDAINED** by the Council of the City of Jacksonville:

23 **Section 1. Appropriation.** For the 2016-2017 fiscal year,
24 within the City's budget, there are hereby appropriated the
25 indicated sum(s) from the account(s) listed in subsection (a) to
26 the account(s) listed in subsection (b):

27 (B.T. 17-059 attached hereto as **Exhibit 2** and incorporated herein
28 by this reference)

29 (a) Appropriated from:

30 See B.T. 17-059 \$425,000

Amended 5/23/17

(b) Appropriated to:

See B.T. 17-059 \$425,000

(c) **Explanation of Appropriation** - The funding above is to provide \$425,000 from General Fund/General Service District Fund Balance for the settlement of two separate but consolidated Federal litigation matters.

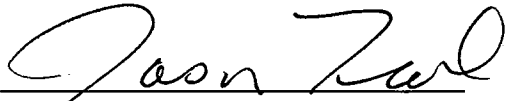
Section 2. Purpose. The purpose of the appropriation in Section 1 is to provide \$425,000 in funding for the settlement of two separate but consolidated Federal litigation matters identified as Ability Housing of Northeast Florida, Inc. v. the City of Jacksonville (Case No. 3:15-CV-1380-J-32PDB) and Disability Rights Florida, Inc. v. City of Jacksonville (Case No. 3:15-CV-1411-TJC-JRK), as described in the Settlement Agreement and Release attached hereto as **Second Revised Exhibit 1**, labeled as "Second Revised Exhibit 1, 2nd Rev Agmt, May 23, 2017 - Floor."

Section 3. Ratification and Approval of Settlement Agreement; Authorization to Implement. There is hereby ratified and approved and the Mayor, or his designee, is authorized to implement, for and on behalf of the City, the terms and conditions of the *Settlement Agreement and Release* in the form hereto attached as **Second Revised Exhibit 1**, labeled as "Second Revised Exhibit 1, 2nd Rev Agmt, May 23, 2017 - Floor", between the Parties, and to take, or cause to be taken, for and on behalf of the City, such further action as is necessary to effectuate the purpose of this Ordinance.

Section 4. Effective Date. This Ordinance shall become effective upon signature by the Mayor or upon becoming effective without the Mayor's signature.

Amended 5/23/17

Form Approved:

A handwritten signature in black ink, reading "Jason Teal", is written over a horizontal line.

Office of General Counsel

Legislation Prepared By: Jason R. Teal

GC-#1127905-v1-2017-69-E.doc

SETTLEMENT AGREEMENT AND RELEASE

THIS SETTLEMENT AGREEMENT AND RELEASE ("**Settlement Agreement**") is entered into between the Plaintiffs in the below referenced lawsuits, Ability Housing, Inc. f/k/a Ability Housing of Northeast Florida, Inc. ("**Ability Housing**") and Disability Rights Florida ("**DRF**," and collectively with Ability Housing, "**Plaintiffs**"), and Defendant, the City of Jacksonville, ("**The City**") (collectively, the "**Parties**").

RECITALS

A. These actions are currently pending in the United States District Court for the Middle District of Florida, styled as *Ability Housing, Inc. v. City of Jacksonville*, Case No. 3:15-cv-1380-J-32PDB, and *Disability Rights Florida v. City of Jacksonville*, Case No. 3:15-cv-1411, which have been consolidated under Case No. 3:15-cv-1380 (the consolidated cases shall hereinafter be referred to as the "**Action**").

B. Ability Housing is a non-profit corporation based in Jacksonville whose mission is to provide quality, affordable, community inclusive housing for individuals and families at risk of homelessness and adults with disabilities.

C. DRF is a federally funded, non-profit corporation whose mission is to advance the quality of life, dignity, equality, self-determination, and freedom of choice of persons with disabilities through collaboration, education, advocacy, as well as legal and legislative strategies.

D. Ability Housing sought to redevelop an existing 12-unit apartment building in the City's Springfield neighborhood for the purpose of renting units to disabled, chronically homeless persons, as permanent supportive housing,¹ using a grant from the Florida Housing Finance Corporation (the "**Project**"). Before permits were obtained to redevelop the building, the Director of the Planning and Development issued a Written Interpretation on May 29, 2014, which distinguished multi-family housing (allowed by right) from the proposed use of the Project and concluded that it was a prohibited Special Use in the Springfield Overlay District. The Written Interpretation's rationale distinguished the proposed use from the allowed multi-family use on the basis that the residents would have disabilities and receive support services. On appeal to the Planning Commission, where Ability Housing alleged that the federal fair housing laws prohibited such a distinction, the Commission upheld the Written Interpretation.

E. In 2015, Ability Housing sought a Certificate of Use from the Zoning Administrator for the Project, asserting that a denial would be unlawful discrimination against persons with disabilities and providers of housing for persons with disabilities. The City denied the Certificate of Use, citing to the Written Interpretation. On appeal to the Certificate of Use Appeals Board, the City again denied the Certificate, citing to the Written Interpretation.

F. Ability Housing brought the Action under the Fair Housing Act, 42 U.S.C. § 3601 *et seq.* ("**FHA**"), and the Americans with Disabilities Act, 42 U.S.C. § 12131 *et seq.* ("**ADA**"),

¹ Permanent supportive housing includes making health and social services available to residents.

alleging that the City violated Ability Housing's rights and expressly discriminated against persons with disabilities by denying Ability Housing a Certificate of Use for the Project. Additionally, Ability Housing alleged that the City retaliated against Ability Housing for having asserted rights under the FHA and ADA by withholding grant monies that had previously been awarded to Ability Housing and by instituting a code enforcement action against the current owner of the property for the proposed Project. Specifically, Ability Housing alleged that: (i) Local Initiatives Support Coalition ("**LISC**") was instructed by at least one City official to not make an annual grant of City "Jacksonville Journey" funds to Ability Housing because Ability Housing sued the City, and because the City does not issue grants to organizations which are in active disputes with the City; (ii) thereafter, LISC did not make an annual grant of Jacksonville Journey Funds to Ability Housing; and (iii) LISC had granted Ability Housing Jacksonville Journey funds in prior years.

G. Ability Housing alleged that, because of the City's actions, Florida Housing Finance Corporation withdrew the \$1,355,222 grant awarded to Ability Housing to purchase and renovate the 12-unit apartment building. Further, Ability Housing alleges that it was unable to proceed with the Project, it has lost certain out-of-pocket money that it expended on its efforts to pursue the proposed Project, and it has expended attorneys' fees and costs pursuing the Action.

H. DRF brought the Action under the FHA and ADA, alleging that the City's zoning ordinance, the Springfield Overlay, which included a prohibition on new group care homes, residential treatment facilities, and community residential homes within a defined area of Springfield, facially discriminates against persons with disabilities by denying them the right to reside in the dwelling of their choice.

I. The City denies Plaintiffs' allegations, including denying that its actions violated any Federal, State or local law or regulation or that Plaintiffs are entitled to recover any damages in the Action. However, the City affirms that it is its policy, and the policy of the United States, that it is illegal to discriminate against disabled persons, including persons with mental disabilities and providers of housing to disabled persons, and including any retaliation against such persons for asserting their rights, and that disabled persons have the right to live in the neighborhood of their choosing in furtherance of the purposes of these policies.

J. The Parties have investigated the facts and have analyzed the relevant legal issues with regard to the claims and defenses asserted in the Action. The Parties continue to maintain that their respective claims and defenses are viable. However, the Parties have also weighed the uncertainties of trial and the benefits to be obtained under the proposed settlement, and have considered the costs, risks, and delays associated with the continued prosecution of these complex and time-consuming causes of action and the likely appeals of any rulings in favor of either Plaintiffs or the City. These considerations were made after substantial discovery including voluminous document production and numerous depositions.

K. Accordingly, it was the Parties' intention to negotiate in good faith in an attempt to compromise the Parties' respective positions, arguments and defenses and develop and agree upon settlement terms. The Parties' objective for this Settlement Agreement is to encapsulate the settlement terms and conclude this matter to avoid the costs of further litigation and trial, and to settle and dispose of, fully and completely and forever, any and all claims and causes of action

that were asserted or that could have been asserted in the Action on account of the Project or alleged retaliatory conduct by the City.

AGREEMENT

1. **DEFINITIONS.** The following section defines terms that are not defined above. Some definitions use terms that are defined later in this section:

1.1 The term "*City's Counsel*" means Jason Teal, Esquire and Wendy Byndloss, Esquire, Office of General Counsel, City Hall, 117 West Duval Street, Suite 480, Jacksonville, Florida 32202.

1.2 The term "*City Council*" means the City Council of the City of Jacksonville.

1.3 The term "*Court*" means the United States District Court for the Middle District of Florida, where the Action is pending.

1.4 The term "*Effective Date*" means the date the City Council approves this Settlement Agreement.

1.5 The term "*Ordinance Code*" means the City of Jacksonville Ordinance Code.

1.6 The term "*Plaintiffs' Counsel*" shall mean:

1.6.1 On behalf of Ability Housing: Edward Cole, Esquire and Allison Stocker, Esquire, Akerman LLP, 50 N. Laura Street, Suite 3100, Jacksonville, FL 32202; and

1.6.2 On behalf of DRF: David Boyer, Esquire, and Molly Jean Paris, Esquire, Disability Rights Florida, 1930 Harrison Street, Suite 104, Hollywood, FL 33020.

1.7. The term "*Settlement*" means the settlement of the Action.

1.8 The term "*Zoning Code*" shall refer to Chapter 656 of the Ordinance Code.

2. SETTLEMENT TERMS.

2.1 **Rescission of Written Interpretation.** Within ten (10) days of the Effective Date, the City shall rescind the May 29, 2014 Written Interpretation related to the Project.

2.2 **Proposed Amendment of City Ordinance.** Within thirty (30) days of the Effective Date, the City's Counsel shall submit and present a proposed ordinance in substantially the form set forth on **Exhibit A** to this Settlement Agreement to the

Jacksonville City Council for approval. The Parties recognize that they cannot bind the City Council through this Settlement Agreement and that the proposed ordinance may be altered or rejected during the legislative process. The amendments shall generally include changes to the following:

- (a) Part I (General Provisions), Subpart A (Basic Provisions) to recognize and require construction of the Zoning Code consistent with civil rights law, including the FHA and ADA;
- (b) Part I (General Provisions), Subpart B (Administration) to create a procedure for persons with disabilities to request reasonable accommodations from provisions of the Zoning Code;
- (c) Part 3 (Schedule of District Regulations), Subpart F (Planned Unit Development) to prohibit the use of planned unit developments to discriminate or violate civil rights;
- (d) Part 3 (Schedule of District Regulations), Subpart I (Springfield Zoning Overlay and Historic District Regulations) to remove certain prohibitions on housing for persons with disabilities, allow group care homes for persons with disabilities by exception in the RMD-S district, and to allow residential treatment facilities as allowable uses by exception in the CCG-S district; and
- (e) Part 16 (Definitions) to amend definitions of group care home for persons with disabilities and residential treatment facilities, and to add definitions for supportive services and reasonable accommodation.
- (f) To recognize that a disabled resident's receipt of supportive services in a dwelling unit, provided by the owner, management or third parties, does not change a multiple-dwelling unit or other dwelling unit into another type of differently regulated use.

2.3 Compensation to Plaintiffs. Within (30) days after the Effective Date or the date on which Plaintiffs' Counsel provides the City with a Form W-9, whichever is later, the City shall pay the following compensation to:

2.3.1 Ability Housing: \$400,000, by check payable to "Akerman LLP Trust Account," which represents Ability Housing's out-of-pocket expenses and a portion of Ability Housing's reasonable attorneys' fees and costs, but excludes Jacksonville Journey funds Ability Housing did not receive; and

2.3.2 DRF: \$25,000, by check payable to "Disability Rights Florida Trust Account," which represents DRF's reasonable attorneys' fees and costs.

2.4 Dismissal with Prejudice. Within ten (10) days of the later of (a) payment of the Compensation to Plaintiffs as detailed in Section 2.3, above, or (b) City

Council enacting an ordinance as specified in Section 2.2, above, and the ordinance becoming law, Plaintiffs will dismiss their respective lawsuits, with prejudice, with each party to bear its own fees and costs (except as agreed in Section 2.3, above). Notwithstanding the foregoing, the dismissal shall not divest the Court or jurisdiction to enforce the terms of this Settlement Agreement.

2.5 Eligibility for Jacksonville Journey and Other City Grant Funds.

Upon execution of this Settlement Agreement, Ability Housing shall be eligible to apply and compete for "Jacksonville Journey" funds and any other City funds administered by the City, LISC or any other entity for which Ability Housing is otherwise qualified to receive. If for any reason this Settlement Agreement is terminated, then subject to applicable laws, the City shall determine whether Ability Housing is eligible to apply and compete for any City funds. No entity shall receive any funds if it is in litigation with the City except litigation involving claims alleging a violation by the City of any party's civil rights.

2.6 Grant for Development of Permanent Supportive Housing. Within one (1) year following dismissal of the Action, the City shall establish and award a grant of \$1.5 million (\$1,500,000) for the development of "Permanent Supportive Housing" within the City for persons with disabilities. The grant shall be awarded to a qualified developer through a competitive grant process. Ability Housing shall be eligible to participate in the grant process and to receive some or all of the grant award. The definition of "Permanent Supportive Housing" in the grant shall be the same definition used by the U.S. Department of Housing and Urban Development ("**HUD**") to wit:

Long-term, community-based housing that has supportive services for homeless persons with disabilities. This type of supportive housing enables special needs populations to live as independently as possible in a permanent setting. The supportive services may be provided by the organization managing the housing or coordinated by the applicant and provided by other public or private service agencies. Permanent housing can be provided in one structure or several structures at one site or in multiple structures at scattered sites. There is no definite length of stay.

2.7 Parties' General Release. Subject to fulfillment of all Conditions Precedent as described in section 2.8 below and as of the later of (a) payment of the Compensation to Plaintiffs as detailed in Section 2.3, or (b) the Effective Date of this Settlement Agreement, Plaintiffs, and each of Plaintiffs' successors and assigns, shall release and forever discharge the City from all manner of action, causes of action, claims, demands, rights, suits, obligations, debts, contracts, agreements, promises, liabilities, damages (including punitive or any other form of exemplary damages), charges, fines, penalties, losses, costs, expenses, and attorneys' fees, of any nature whatsoever, known or unknown, in law or equity, fixed or contingent, which they have or may have arising out of any of the acts, omissions or other conduct of the City complained of in the Action, including any claims or actions that were or could have been alleged in the Action. Subject to fulfillment of all Conditions Precedent as described in section 2.8 below and as of the later of (a) payment of the Compensation to Plaintiffs as detailed in Section 2.3, or (b) the Effective Date of this Settlement Agreement, the City shall release and forever discharge the Plaintiffs, and each of Plaintiffs' successors and

assigns, from all manner of action, causes of action, claims, demands, rights, suits, obligations, debts, contracts, agreements, promises, liabilities, damages (including punitive or any other form of exemplary damages), charges, fines, penalties, losses, costs, expenses, and attorneys' fees, of any nature whatsoever, known or unknown, in law or equity, fixed or contingent, which they have or may have arising out of any of the acts, omissions or other conduct of the Plaintiffs in the Action, including any claims or actions that were or could have been alleged in the Action. This release shall not affect the Parties' right to enforce the terms of the Settlement Agreement.

2.8 Conditions Precedent. This Settlement Agreement is contingent upon the following conditions: (a) approval and authorization to bind the City of Jacksonville under this Settlement Agreement by City Resolution or Ordinance; (b) introduction by the City's Counsel of an ordinance substantially similar to the attached draft ordinance; (c) enactment of an ordinance by the City substantially similar to the attached draft ordinance (the "**Zoning Ordinance**") (both (b) and (c) to occur by April 30, 2017; however this deadline may be extended by mutual consent of the Parties); and (d) DRF's and Ability Housing's right to approve or disapprove of any changes made to the Zoning Ordinance from the attached draft. DRF's and Ability Housing's right to approve or disapprove changes to the draft Zoning Ordinance in this paragraph 2.8 (d) shall be in their sole discretion. Should these conditions not be met, Ability Housing and/or DRF may elect to terminate this Settlement Agreement and proceed forward with their claims in the Action. Any non-terminating Plaintiff may elect to continue to be bound by this Settlement Agreement. DRF and Ability Housing recognize the City Council's exclusive authority to enact legislation; such right to approve or disapprove the Zoning Ordinance is only as to their rights to determine whether or not to terminate the Settlement Agreement.

3. ADDITIONAL PROVISIONS

3.1 The City's Denial of Wrongdoing. This Settlement Agreement reflects the Parties' compromise and Settlement of the disputed claims. Its provisions, and all related drafts, communications and discussions, cannot be construed as or deemed to be evidence of an admission or concession of any point of fact or law (including, but not limited to, the FHA, ADA, or the proper interpretation of Florida Laws and the Jacksonville Municipal Code and related ordinances, or the existence of any alleged violations thereof) by any person or entity and cannot be offered or received into evidence or requested in discovery in the Action or any other action or proceeding as evidence of an admission or concession.

3.2 Voluntary Agreement. The Parties acknowledge they have each executed this Settlement Agreement voluntarily and without duress or undue influence.

3.3 Binding on Successors. This Settlement Agreement binds and benefits the Parties' respective successors and assigns.

3.4 Parties Represented by Counsel. The Parties acknowledge that: (a) they have been represented by independent counsel of their own choosing during the negotiation of this Settlement Agreement and the preparation of this Settlement Agreement; (b) they have read this Settlement Agreement and are fully aware of its contents; and (c) their respective counsel fully explained to them the Settlement Agreement and its legal effect.

3.5 Authorization. Each Party warrants and represents that there are no liens or claims of lien or assignments, in law or equity, against any of the claims or causes of action released by this Settlement Agreement and, further, that each Party is fully entitled and duly authorized to give this complete and final release and discharge. To the extent any such liens exist, the Parties expressly agree to waive those liens in order to effectuate this Settlement Agreement.

3.6 Entire Agreement. This Settlement Agreement and attached exhibit contain the entire agreement between the Parties and constitute the complete, final, and exclusive embodiment of their agreement with respect to the Action. This Settlement Agreement is executed without reliance on any promise, representation, or warranty by any Party or any Party's representative other than those expressly set forth in this Settlement Agreement.

3.7 Construction and Interpretation. Neither Party nor any of the Parties' respective attorneys will be deemed the drafter of this Settlement Agreement for purposes of interpreting any provision in this Settlement Agreement in any judicial or other proceeding that may arise between them. This Settlement Agreement has been, and must be construed to have been, drafted by all the Parties to it, so that any rule that construes ambiguities against the drafter will have no force or effect.

3.8 Headings and Formatting of Definitions. The various headings used in this Settlement Agreement are solely for the Parties' convenience and may not be used to interpret this Settlement Agreement. Similarly, bolding and italicizing of definitional words and phrases is solely for the Parties' convenience and may not be used to interpret this Settlement Agreement. The headings and the formatting of the text in the definitions do not define, limit, extend, or describe the Parties' intent or the scope of this Settlement Agreement.

3.9 Exhibits. The exhibit to this Settlement Agreement is an integral part of the Settlement Agreement and the Settlement and is incorporated into this Settlement Agreement as though fully set forth in the Settlement Agreement. A refusal to approve the Exhibit in substantially the same form in which it appears in this document shall constitute a refusal to approve this Settlement Agreement.

3.10 Modifications and Amendments. No amendment, change, or modification to this Settlement Agreement, whether proposed by the Parties or the Court, will be valid unless agreed upon in a writing signed by the Parties or their counsel.

3.11 Enforcement. The Parties agree that the Court shall retain jurisdiction over the Parties to enforce the terms of this Settlement Agreement.

3.12 Governing Law. This Settlement Agreement is governed by Florida law and must be interpreted under Florida law and without regard to conflict of laws principles.

3.13 Further Assurances. The Parties must execute and deliver any additional papers, documents and other assurances, and must do any other acts reasonably necessary, to perform their obligations under this Settlement Agreement and to carry out this Settlement Agreement's expressed intent.

3.14 Agreement Constitutes a Complete Defense. To the extent permitted by law, this Settlement Agreement may be pled as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit, or other proceedings that may be instituted, prosecuted or attempted in breach of or contrary to this Settlement Agreement.

3.15 Execution Date. This Settlement Agreement is deemed executed on the date the Settlement Agreement has been signed by all of the undersigned.

3.16 Counterparts. This Settlement Agreement may be executed in counterparts, each of which constitutes an original, but all of which together constitutes one and the same instrument. Several signature pages may be collected and annexed to one or more documents to form a complete counterpart. Photocopies of executed copies of this Settlement Agreement may be treated as originals.

3.17 Recitals. The Recitals are incorporated by this reference and are part of the Settlement Agreement.

3.18 Severability. If any provision of this Settlement Agreement is declared by the Court to be invalid, void, or unenforceable, the remaining provisions of this Settlement Agreement will continue in full force and effect.

3.19 Inadmissibility. This Settlement Agreement (whether or not approved, revoked, or made ineffective for any reason) and any proceedings or discussions related to this Settlement Agreement are inadmissible as evidence of any liability or wrongdoing whatsoever in any Court or tribunal in any state, territory, or jurisdiction except that this provision shall not prohibit any Party from introducing this Settlement Agreement in an effort to enforce the terms of this Settlement Agreement.

3.20 No Conflict Intended. Any inconsistency between this Settlement Agreement and the attached exhibit will be resolved in favor of this Settlement Agreement.

3.21 List of Exhibits: The following exhibit is attached to this Settlement Agreement:


Exhibit A – Proposed Ordinance

3.22 Waivers. No failure to exercise and no delay in exercising any right, remedy, or power under this Settlement Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, or power under this Settlement Agreement preclude any other or further exercise thereof, or the exercise of any other right, remedy, or power provided herein or by law or in equity.

[Intentionally Blank/Signature Pages Follow]

The Parties have agreed to the terms of this Settlement Agreement and have signed below.

ABILITY HOUSING, INC., f/k/a ABILITY
HOUSING OF NORTHEAST FLORIDA,
INC.

By: 
Greg Matovina, Chairman

Date: 12/27/16


Witness

Print name: SARA JO HALL

Date 12/27/16

DISABILITY RIGHTS FLORIDA

By: 
Maryellen McDonald, Executive Director
[Name and Title]

Date: 12/29/2016

Witness

Print name: Susan P. Morgan

Date: 12/29/2016

THE CITY OF JACKSONVILLE

By: *Saudi Maman*

Its: Chief Administrative Officer

Date: 1/03/17

Kandi R. Begue
Witness

Print name: *Kandi R. Begue*

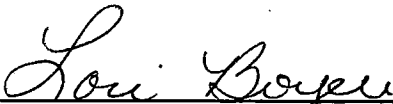
Date: 1/3/17

ORDINANCE 2017-69-E

CERTIFICATE OF AUTHENTICATION

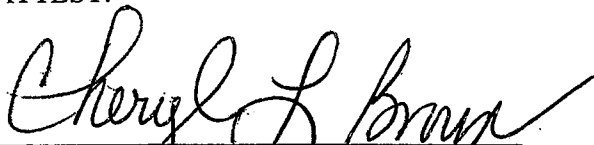
ENACTED BY THE COUNCIL

May 23, 2017



LORI BOYER
COUNCIL PRESIDENT

ATTEST:



DR. CHERYL L. BROWN
COUNCIL SECRETARY

APPROVED: MAY 25 2017



LENNY CURRY, MAYOR



APPENDIX B

[Ordinance]

SUBSTITUTED AND AMENDED 5/23/17

1 Introduced by the Council President at the request of the Office of
2 General Counsel substituted by the Land Use and Zoning Committee
3 and amended on the Floor by Council:
4
5

ORDINANCE 2017-36-E

7 AN ORDINANCE AMENDING CHAPTER 656, (ZONING
8 CODE), PART 1 (GENERAL PROVISIONS), SUBPART A
9 (BASIC PROVISIONS), SECTION 656.107
10 (CONFLICTING PROVISIONS), ORDINANCE CODE, TO
11 STATE THE INTENT OF THE CITY THAT ALL
12 REGULATIONS OF THE ZONING CODE BE APPLIED TO
13 PROTECT CIVIL RIGHTS; AMENDING CHAPTER 656,
14 (ZONING CODE), PART 1 (GENERAL PROVISIONS),
15 SUBPART B (ADMINISTRATION), SECTION 656.112
16 (RESERVED) TO CREATE A NEW SECTION 656.112
17 (REASONABLE ACCOMMODATIONS FOR DISABLED
18 PERSONS), ORDINANCE CODE, TO CREATE A
19 PROCEDURE FOR DISABLED PERSONS TO REQUEST
20 REASONABLE ACCOMMODATIONS FROM PROVISIONS OF
21 THE ZONING CODE; AMENDING CHAPTER 656 (ZONING
22 CODE), PART 3 (SCHEDULE OF DISTRICT
23 REGULATIONS), SUBPART F (PLANNED UNIT
24 DEVELOPMENT), SECTION 656.340 (PLANNED UNIT
25 DEVELOPMENT - PUD), ORDINANCE CODE, TO
26 PROHIBIT USE OF PLANNED UNIT DEVELOPMENT TO
27 DISCRIMINATE OR VIOLATE CIVIL RIGHTS; AMENDING
28 CHAPTER 656 (ZONING CODE), PART 3 (SCHEDULE OF
29 DISTRICT REGULATIONS), SUBPART I (SPRINGFIELD
30 ZONING OVERLAY AND HISTORIC DISTRICT

SUBSTITUTED AND AMENDED 5/23/17

REGULATIONS), SECTION 656.365 (LEGISLATIVE FINDINGS AND INTENT), ORDINANCE CODE, TO REMOVE THE REFERENCE TO THE NUMBER OF GROUP CARE HOMES AND COMMUNITY RESIDENTIAL HOMES WITHIN THE DISTRICT; AMENDING CHAPTER 656 (ZONING CODE), PART 3 (SCHEDULE OF DISTRICT REGULATIONS), SUBPART I (SPRINGFIELD ZONING OVERLAY AND HISTORIC DISTRICT REGULATIONS), SECTION 656.368 (SPRINGFIELD HISTORIC ZONING DISTRICTS), ORDINANCE CODE, TO REMOVE REFERENCE TO "SPECIAL USES," PROHIBIT NEW ROOMING HOUSES IN THE OVERLAY DISTRICTS, TO CREATE PROCEDURES FOR EXISTING ROOMING HOUSES, TO ALLOW BY EXCEPTION IN THE RMD-S DISTRICT GROUP CARE HOMES, TO ALLOW BY EXCEPTION IN THE CCG-S DISTRICT RESIDENTIAL TREATMENT FACILITIES FOR PERSONS WITH DISABILITIES AND EMERGENCY SHELTERS, AND TO REQUIRE CERTAIN OTHER USES TO MEET THE STANDARDS OF PART 4 OF THE ZONING CODE; AMENDING CHAPTER 656 (ZONING CODE), PART 3 (SCHEDULE OF DISTRICT REGULATIONS), SUBPART I (SPRINGFIELD ZONING OVERLAY AND HISTORIC DISTRICT REGULATIONS), SECTION 656.369, ORDINANCE CODE, TO REQUIRE LICENSURE OF EXISTING PROHIBITED USES AND REMOVE REFERENCE TO "SPECIAL USES"; AMENDING CHAPTER 656 (ZONING CODE), PART 16 (DEFINITIONS), SECTION 656.1601 (DEFINITIONS), ORDINANCE CODE, TO AMEND DEFINITIONS OF COMMUNITY RESIDENTIAL HOME, DWELLING,

SUBSTITUTED AND AMENDED 5/23/17

MULTIPLE-DWELLING USE, DWELLING, ONE-FAMILY OR
SINGLE-FAMILY, DWELLING UNIT, GROUP CARE HOME,
RESIDENTIAL TREATMENT FACILITY, AND ROOMING
HOUSES, ADDING DEFINITIONS FOR DISABLED
PERSON, REASONABLE ACCOMMODATION, AND
SUPPORTIVE SERVICES; PROVIDING AN EFFECTIVE
DATE.

BE IT ORDAINED by the Council of the City of Jacksonville:

Section 1. Amending Section 656.107 (Conflicting provisions), Ordinance Code. Chapter 656 (Zoning Code), Part 1 (Supplementary Regulations), Subpart A (Basic Provisions), Section 656.107 (Conflicting provisions), *Ordinance Code*, is hereby amended to read as follows:

CHAPTER 656. ZONING CODE

PART 1. SUPPLEMENTARY REGULATIONS

SUBPART A. BASIC PROVISIONS

* * *

Sec. 656.107. - Conflicting provisions; protection of civil rights.

(a) It is not the intent of the provisions of the Zoning Code to interfere with or abrogate or annul any easement, covenant or other agreement between parties; provided, however, that when the regulations of the Zoning Code impose a greater restriction upon the use of buildings or land, or upon the height of buildings, or require larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants or agreements, the provisions of this Chapter shall control.

SUBSTITUTED AND AMENDED 5/23/17

(b) It is the intent of the City that all regulations of the Zoning Code be applied and interpreted so as to protect and be consistent with civil rights recognized by the U.S. and Florida Constitutions, ordinances and laws, including the Jacksonville Fair Housing Ordinance, the Rehabilitation Act of 1973, the U.S. Fair Housing Act, the U.S. Civil Rights Acts of 1964 and 1968, the Religious Land Use and Institutionalized Persons Act of 2000, and the Americans with Disabilities Act as such laws may be amended from time to time. Employees of the Planning and Development Department, including the Planning Director, employees of the Office of the General Counsel, and the Planning Commission are directed to avoid any and all interpretations or applications of the Zoning Code which would unlawfully infringe upon the civil rights of any person.

* * *

Section 2. Amending Section 656.112 (Reserved), Ordinance Code. Chapter 656 (Zoning Code), Part 1 (Supplementary Regulations), Subpart B (Administration), Section 656.112 (Reserved), *Ordinance Code*, is hereby amended to read as follows:

CHAPTER 656. ZONING CODE

PART 1. SUPPLEMENTARY REGULATIONS

* * *

SUBPART B. ADMINISTRATION

Sec. 656.112 ~~Reserved.~~ Reasonable Accommodations for Disabled Persons.

(a) Intent. A reasonable accommodation to the Zoning Code may be requested to allow a disabled person, as that term is recognized by federal, state or local law, to use and enjoy a dwelling. A reasonable accommodation process is necessary because in some instances certain standards found in the Zoning Code, if

SUBSTITUTED AND AMENDED 5/23/17

1 strictly applied, would inhibit the use of a dwelling due to a
2 person's disability. As such, the City needs a formal process
3 whereby a disabled individual, or individuals, or a person, entity
4 or group on behalf of a disabled individual or individuals, may
5 make a request for a reasonable accommodation ("Request for a
6 Reasonable Accommodation") and seek relief from a particular zoning
7 standard in order to afford them an equal opportunity to legally
8 use and enjoy a dwelling. Accommodations must be considered on an
9 individual basis because the nature and extent of a disability and
10 the requirements of the Zoning Code will vary in each case. If an
11 individual does not request an accommodation, the City is not
12 obligated to provide one except where an individual's known
13 disability impairs his/her ability to know of, or effectively
14 communicate a need for, an accommodation that is made obvious to
15 the City. The grant of a Request for a Reasonable Accommodation
16 shall not be deemed to be a rezoning of property, or to allow uses
17 that would otherwise require a zoning exception or waiver pursuant
18 to Chapter 656, Ordinance Code.

19 If the Request for a Reasonable Accommodation would constitute
20 a request for a rezoning or zoning exception, then the person may
21 make application for such rezoning or zoning exception in the same
22 manner as other rezoning or zoning exception requests, however, the
23 Request for Reasonable Accommodation criteria in Section 656.112,
24 Ordinance Code, shall be considered in addition to the standard
25 criteria for the request for rezoning or zoning exception, and
26 there shall be no application fee or fee for notice applied to the
27 request.

28 (b) Application process.

29 (1) Requests for Reasonable Accommodations may be made
30 orally or in writing to the Planning and Development

SUBSTITUTED AND AMENDED 5/23/17

1 Department, which will assist the applicant with filling out
2 the written application on a form prescribed by the
3 Department. Said application form shall be developed in
4 consultation with the Chief of Disabled Services for the City
5 of Jacksonville, as defined in Chapter 28, Part 9, Ordinance
6 Code. Such form shall instruct the applicant regarding what
7 information is required from the applicant in order for the
8 application to be deemed complete.

9 (2) Upon receipt of the Request for Reasonable
10 Accommodation application, the Planning Director shall notify
11 the Chief of Disabled Services of the request and consult with
12 the Chief to determine whether the application is complete
13 within five (5) working days. If it is determined that the
14 application is not complete, written notice shall be provided
15 to the applicant within three (3) working days specifying the
16 deficiencies. The Director shall take no further action on the
17 application until the deficiencies are remedied.

18 (3) No fees or costs may be imposed for Request for
19 Reasonable Accommodation applications.

20 (4) Unless barred by administrative *res judicata*, the
21 time limitations in Sec. 656.125(d), Ordinance Code, do not
22 apply to rezoning or zoning exception applications that also
23 constitute Requests for Reasonable Accommodations.

24 (c) **Department Decision.** The Director shall make the decision
25 on the application based upon consultation with, and the written
26 recommendation of, the Chief of Disabled Services. The applicant
27 may receive a decision by the Director with a hearing, or may elect
28 to have the decision made by the Director without a hearing. The
29 Department shall inform the applicant of this option to receive a
30 decision without a hearing at the time of his or her application.

SUBSTITUTED AND AMENDED 5/23/17

1 (1) If the applicant chooses to have a hearing on the
2 application, the Director shall schedule a hearing on the
3 application on a date certain at least 14 days after notice is
4 posted but within thirty (30) days after the application has
5 been deemed complete. The Director shall make a decision
6 within 5 business days of the hearing.

7 (2) If the applicant elects to receive a decision without
8 a hearing, the Director shall establish the date of decision
9 to be at least 14 days after notice is posted but within
10 thirty (30) days after the application has been deemed
11 complete. The Director shall make the decision on the date
12 established.

13 (3) The Chief of Disabled Services shall provide the
14 Director with a written recommendation on the applicant's
15 claimed disability at least five (5) business days prior to
16 the date established for the decision by the Director, or the
17 date of the hearing if one is scheduled to take place.

18 (4) Persons wishing to provide competent, substantial
19 evidence related to the application shall provide those
20 comments in writing to the Director five (5) business days
21 prior to the date established for the decision by the
22 Director, or may provide such evidence before or at the
23 hearing if one takes place.

24 (5) The Director shall provide the applicant a written
25 order including his/her decision within 10 days of the date of
26 decision for both hearing and non-hearing proceedings. Any
27 order denying a Request for Reasonable Accommodation, or its
28 conditional approval, shall include an explanation of the
29 basis for such denial or conditional approval.

SUBSTITUTED AND AMENDED 5/23/17

1 (d) **Notice.** Notice of Request for Reasonable Accommodation
2 shall be given within three (3) days of the receipt of a complete
3 application by the Department by posting signs on the subject
4 property at intervals of not more than 200 feet along all street
5 sides of property upon which the request is made. The signs shall
6 indicate the request and information on how, and by when,
7 participation is allowed. The Department shall also post notice at
8 City Hall and the Planning and Development Department in the
9 specified location for posted notices within three (3) days after
10 receipt of a complete application. No published advertisement
11 shall be required. The date of the hearing or the date established
12 for the decision by the Director shall be specified in the notice.

13 (e) **Criteria.** In evaluating a Request for Reasonable
14 Accommodation, the Director shall consider competent, substantial
15 evidence relating to the following:

- 16 (1) whether the applicant meets the definition of a
17 disabled person. The Director shall make this
18 determination based upon consultation with, and the
19 recommendation of, the Chief of Disabled Services;
20 (2) whether there is an identifiable relationship, or
21 nexus, between the requested accommodation and the
22 person's needs;
23 (3) whether a sufficient alternative to the specific
24 initial request exists, if the initial request is
25 determined to be not reasonable;
26 (4) whether granting this request would change the
27 essential nature of the Zoning Code as compared to
28 strict application of the code to the circumstances
29 of the request; and

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(5) whether the request would impose undue financial and administrative burdens on the City.

It is the City's intent that reasonable accommodations be granted where required by federal law. If the Director, based upon the Chief of Disabled Services' recommendation regarding the applicant's claimed disability, determines that the specific request is not reasonable, he/she shall offer, where possible, some other accommodation which would meet the requester's needs. No additional standards of review of Requests for Reasonable Accommodation are required. In making this determination, it shall not be a factor whether there are other neighborhoods or dwellings that could accommodate the person.

The Director and Chief of Disabled Services are entitled to obtain information that is necessary to evaluate if a requested reasonable accommodation may be necessary because of a disability. If a person's disability is obvious, or otherwise known to the Director or Chief, and if the need for the requested accommodation is also readily apparent or known, then the Director or Chief may not request any additional information about the applicant's disability or the disability-related need for the accommodation. However, if the applicant's disability is known or readily apparent to the Director or Chief, but the need for the accommodation is not readily apparent or known, the Director may request only information that is necessary to evaluate the disability-related need for the accommodation. The Director or Chief may not ordinarily inquire as to the nature and severity of an individual's disability, however, the Director or Chief may request reliable disability-related information that: (1) is necessary to verify that the person meets the Fair Housing Act and Americans with

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1 Disability Act's definition of "disability", (2) describes the
2 needed accommodation, and (3) shows the relationship between the
3 person's disability and the need for the requested accommodation.
4 Depending on the individual's circumstances, information verifying
5 that the person meets the Act's definition of disability can
6 usually be provided by the individual, but also may come from a
7 doctor or medical professional, a peer support group, a non-medical
8 service agency, or a reliable third party who is in a position to
9 know about the individual's disability. Once the Director, based
10 upon consultation with and the written recommendation of the Chief,
11 has established that the applicant meets the definition of a
12 disabled person, the Director should seek only the information
13 necessary to evaluate if the request is needed because of a
14 disability.

15 (f) **Term of accommodation.** Requests for Reasonable
16 Accommodations shall be personal to the applicant and shall not run
17 with the land, and shall only remain in place for as long as the
18 applicant's need for the request exists or remains. It shall be
19 the responsibility of the property owner to remove or correct any
20 non-conforming zoning code standard authorized in an approved
21 Request for Reasonable Accommodation once the need for the
22 accommodation ends.

23 (g) **Appeal.** Decisions on Requests for Reasonable
24 Accommodation are appealable to the City Council pursuant to the
25 procedures identified in sections 656.140-145. The Council's
26 review of the appeal shall be limited to a consideration of whether
27 the Request for Reasonable Accommodation criteria were properly
28 considered and applied, taking all laws, ordinances and other
29 judicial or legal guidance into consideration, and whether
30 sufficient alternatives were evaluated.

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1 **Section 3. Amending Section 656.340, (Planned Unit**
2 **Development -- PUD), Ordinance Code.** Chapter 656, (Zoning Code),
3 Part 3 (Schedule of District Regulations), Subpart F (Planned Unit
4 Development), Section 656.340 (Planned Unit Development -- PUD),
5 *Ordinance Code*, is hereby amended to read as follows:

6 **CHAPTER 656. ZONING CODE**

7 * * *

8 **PART 3. SCHEDULE OF DISTRICT REGULATIONS**

9 * * *

10 **SUBPART F. PLANNED UNIT DEVELOPMENT**

11 **Sec. 656.340. Planned Unit Development -- PUD.**

12 It is the intent and purpose of this district that Planned Unit
13 Developments, both large scale, which consists of five acres or
14 more, and small scale, which consists of less than five acres, be
15 utilized to create living environments that are responsive to the
16 needs of their inhabitants; to provide flexibility in planning,
17 design and development; to encourage innovative approaches to the
18 design of community environments; to encourage the fulfillment of
19 housing needs appropriate to various lifestyles and income levels;
20 to encourage the integration of different housing types within a
21 development; provide an opportunity for new approaches to
22 ownership; to provide for an efficient use of land; to provide an
23 environment compatible with surrounding land use; to adapt the
24 zoning process to changes in construction and development
25 technology; to encourage the preservation of the natural site
26 features; to provide community environments that are so designed
27 and located as to be an integral part of the total ecosystem; to
28 encourage the design of communities and structures adapted to the
29 local climate; thereby promoting the public health, safety, morals,
30 order, comfort, convenience, appearance, prosperity, and general

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welfare of the City of Jacksonville. It is further intended that the Planned Unit Development district may be utilized to implement the Comprehensive Plan. It is not the intent to utilize the Planned Unit Development district solely to diminish the usual application of the provisions of the Zoning Code. The Planned Unit Development district process shall not be used to discriminate against or otherwise violate civil rights of the existing or future residents, users or occupants of the PUD. The rights of people with disabilities to access and use housing in the form of dwelling units, community residential homes or group homes shall not be more restrictive in a PUD than in equivalent conventional zoning districts.

* * *

Section 4. Amending Section 656.365, (Legislative findings and intent), Ordinance Code. Chapter 656, (Zoning Code), Part 3 (Schedule of District Regulations), Subpart I (Springfield Zoning Overlay and Historic District Regulations), Section 656.365 (Legislative findings and intent), Ordinance Code, is hereby amended to read as follows:

CHAPTER 656. ZONING CODE

* * *

PART 3. SCHEDULE OF DISTRICT REGULATIONS

* * *

SUBPART I. SPRINGFIELD ZONING OVERLAY AND HISTORIC DISTRICT REGULATIONS

Sec. 656.365. Legislative findings and intent.

The Council hereby finds and determines as follows:

* * *

(e) Within the one square mile area of the Springfield Historic District, the Council finds there is a disproportionately

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1 large number of rooming houses ~~(thirteen), group care homes,~~
 2 ~~community residential homes of seven or more residents and~~
 3 automotive uses ~~(twenty)~~, including automotive sales and repairs
 4 and related automotive uses.

* * *

6 Section 5. Amending Section 656.368, (Springfield
 7 Historic Zoning Districts), Ordinance Code. Chapter 656, (Zoning
 8 Code), Part 3 (Schedule of District Regulations), Subpart I
 9 (Springfield Zoning Overlay and Historic District Regulations),
 10 Section 656.368 (Springfield Historic Zoning Districts), Ordinance
 11 Code, is hereby amended to read as follows:

CHAPTER 656. ZONING CODE

* * *

PART 3. SCHEDULE OF DISTRICT REGULATIONS

* * *

16 SUBPART I. SPRINGFIELD ZONING OVERLAY AND HISTORIC DISTRICT
 17 REGULATIONS

* * *

Sec. 656.368. Springfield Historic Zoning Districts.

20 Springfield Historic Districts include the following:

I. Residential Medium Density-Springfield (RMD-S) District.

(a) Permitted uses and structures.

* * *

24 (5) Community residential homes of six or fewer
 25 residents meeting the performance standards and
 26 development criteria set forth in Part 4 of the
 27 Zoning Code ~~and the special use criteria set forth~~
 28 ~~in Section 656.369.~~

29 (6) Housing for the elderly meeting the performance
 30 standards and development criteria set forth in Part

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4 of the Zoning Code, if applicable. ~~meeting the~~
~~criteria for special uses set forth in Section~~
~~656.369.~~

* * *

(c) *Permissible uses by exception.*

* * *

(5) Nursing homes meeting the performance standards and
development criteria set forth in Part 4 of the
Zoning Code, if applicable. ~~meeting the criteria for~~
~~special uses set forth in Section 656.369.~~

* * *

(10) Group care homes, meeting the performance standards
and development criteria set forth in Part 4, if
applicable.

(d) Prohibited uses. ~~Special uses. Special uses include~~
~~residential treatment facilities, rooming houses, emergency shelter~~
~~homes, group care homes, and community residential homes of over~~
~~six residents. New special uses~~ New rooming houses are not allowed
in the district and existing rooming houses ~~special uses~~ must
conform to the standards set forth in Section 656.369 (gf).

(e) Those uses that were considered legally nonconforming
special uses pursuant to Ord. 2000-302-E, § 1 and Ord. 2007-1046-E,
§§ 1, 2, that existed prior to December 21, 2000, the effective
date of Ord. 2000-302-E, § 1, are permitted as of right if such use
is authorized in the property's underlying zoning district. Except
where otherwise permitted as of right or by a validly issued
exception, such properties shall not expand their square footage,
relocate, or increase the number of non-staff residents, and, if
the use ceases for six (6) consecutive months, the property shall
comply with all current zoning requirements.

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[Reletter the remaining subsections accordingly.]

* * *

II. *Commercial, Residential and Office-Springfield (CRO-S) District.*

(a) *Permitted uses and structures.*

* * *

- (14) Homes for the aged or orphans and similar uses, meeting the performance standards and development criteria set forth in Part 4 of the Zoning Code, if applicable. ~~meeting the criteria for special uses set forth in Section 656.369.~~

* * *

- (23) Community residential homes of up to six residents meeting the performance standards and development criteria set forth in Part 4 of the Zoning Code, if applicable, ~~and criteria for special uses set forth in Section 656.369.~~

- (24) Hospice facilities, meeting the performance standards and development criteria set forth in Part 4 of the Zoning Code, if applicable. ~~meeting the criteria for special uses set forth in Section 656.369.~~

* * *

(d) *Permissible uses by exception.*

* * *

- (5) Nursing homes, meeting the performance standards and development criteria set forth in Part 4 of the Zoning Code, if applicable. ~~meeting the special uses criteria set forth in Section 656.369.~~

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(6) Group care homes meeting the performance standards and development criteria set forth in Part 4 of the Zoning Code, if applicable, ~~and the special use criteria set forth in Section 656.369.~~

(7) Housing for the elderly, meeting the performance standards and development criteria set forth in Part 4 of the Zoning Code, if applicable. ~~meeting the special use criteria set forth in Section 656.369(g).~~

(8) Essential services, including water, sewer, gas, telephone, radio, television and electric, meeting the performance standards and development criteria set forth in Part 4 of the Zoning Code.

(9) Day care centers meeting the performance standards and development criteria set forth in Part 4 of the Zoning Code, if applicable., ~~and the Springfield performance standards and development criteria set forth in Section 656.369.~~

* * *

(e) Prohibited uses. ~~Special uses. Special uses include residential treatment facilities, rooming houses, emergency shelter homes, group care homes, and community residential homes of over six residents. New special uses~~ New rooming houses are not allowed in the districts and existing uses must conform to the standards for ~~special uses~~ rooming houses in Section 656.369(gf).

(f) Those uses that were considered legally nonconforming special uses pursuant to Ord. 2000-302-E, § 1 and Ord. 2007-1046-E, §§ 1, 2, that existed prior to December 21, 2000, the effective date of Ord. 2000-302-E, § 1, are permitted as of right if such use is authorized in the property's underlying zoning district. Except

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1 where otherwise permitted as of right or by a validly issued
 2 exception, such properties shall not expand their square footage,
 3 relocate, or increase the number of non-staff residents, and, if
 4 the use ceases for six (6) consecutive months, the property shall
 5 comply with all current zoning requirements.

6 **[Reletter the remaining subsections accordingly.]**

7 * * *

8 *III. Commercial Neighborhood Springfield (CN-S) District.* This
 9 zoning district is designed to accommodate existing historic
 10 neighborhood original use commercial properties and new
 11 neighborhood commercial uses that are compatible with the
 12 residential character of the neighborhood. Properties with original
 13 use and historic use neighborhood commercial structures do not have
 14 to meet lot, yard, and lot coverage requirements.

15
 16 * * *

17 (d) Prohibited uses. ~~Special uses. Special uses include~~
 18 ~~residential treatment facilities, rooming houses, emergency shelter~~
 19 ~~homes, group care homes, and community residential homes of over~~
 20 ~~six residents.~~ New rooming houses ~~special uses~~ are not allowed in
 21 the districts and existing rooming houses ~~special uses~~ must conform
 22 to standards for rooming houses ~~special uses~~ in Section
 23 656.369(gf).

24 (e) Those uses that were considered legally nonconforming
 25 special uses pursuant to Ord. 2000-302-E, § 1 and Ord. 2007-1046-E,
 26 §§ 1, 2, that existed prior to December 21, 2000, the effective
 27 date of Ord. 2000-302-E, § 1, are permitted as of right if such use
 28 is authorized in the property's underlying zoning district. Except
 29 where otherwise permitted as of right or by a validly issued
 30 exception, such properties shall not expand their square footage,

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1 relocate, or increase the number of non-staff residents, and, if
 2 the use ceases for six (6) consecutive months, the property shall
 3 comply with all current zoning requirements.

* * *

4
 5 IV. *Commercial Community/General-Springfield (CCG-S) District.*

* * *

6
 7 (c) *Permissible uses by exception.*

* * *

8
 9 (11) Residential treatment facilities for persons with
 10 disabilities, meeting the performance standards and
 11 development criteria set forth in Part 4 of the
 12 Zoning Code, if applicable.

13 (12) Emergency shelter homes, meeting the performance
 14 standards and development criteria set forth in Part
 15 4 of the Zoning Code, if applicable.

16 (d) *Intensive uses.*

17 (1) ~~Prohibited uses~~Special uses. Special uses include
 18 ~~residential treatment facilities, rooming houses,~~
 19 ~~emergency shelter homes, group care homes, community~~
 20 ~~residential homes of seven or more residents. New~~
 21 ~~rooming houses~~ special uses are not allowed in the
 22 ~~districts and existing uses must conform to~~
 23 ~~standards for rooming houses~~ special uses in Section
 24 656.369(f).

* * *

25
 26 (e) Those uses that were considered legally nonconforming
 27 special uses pursuant to Ord. 2000-302-E, § 1 and Ord. 2007-1046-E,
 28 §§ 1, 2, that existed prior to December 21, 2000, the effective
 29 date of Ord. 2000-302-E, § 1, are permitted as of right if such use
 30 is authorized in the property's underlying zoning district. Except

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1 where otherwise permitted as of right or by a validly issued
 2 exception, such properties shall not expand their square footage,
 3 relocate, or increase the number of non-staff residents, and, if
 4 the use ceases for six (6) consecutive months, the property shall
 5 comply with all current zoning requirements.

6 [Reletter the remaining subsections accordingly.]

7 * * *

8 Section 5. Amending Section 656.369, (Springfield
 9 performance standards and development criteria), Ordinance Code.
 10 Chapter 656, (Zoning Code), Part 3 (Schedule of District
 11 Regulations), Subpart I (Springfield Zoning Overlay and Historic
 12 District Regulations), Section 656.369 (Legislative findings and
 13 intent), Ordinance Code, is hereby amended to read as follows:

14 CHAPTER 656. ZONING CODE

15 * * *

16 PART 3. SCHEDULE OF DISTRICT REGULATIONS

17 * * *

18 SUBPART I. SPRINGFIELD ZONING OVERLAY AND HISTORIC DISTRICT
 19 REGULATIONS

20 * * *

21 Sec. 656.369. - Springfield performance standards and development
 22 criteria.

23 The following permitted uses or permissible uses by exception
 24 shall meet the performance standards and criteria listed under each
 25 use. These uses are in addition to, rather than in lieu of, the
 26 supplementary regulations of Section 656.401, as applicable.

27 * * *

28 ~~(c) Community residential homes. Community residential homes~~
 29 ~~of six or fewer residents shall be allowed, subject to the~~
 30 ~~following criteria:~~

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~~(1) New community residential homes must be at least 1,000 feet from existing community residential homes.~~

~~(2) Principal and accessory residential structures must comprise at least 1,500 heated square feet.~~

~~(A) Chain link fences shall not be allowed in front yards or in side yards along public streets.~~

~~(B) The use shall comply with all applicable City property maintenance and unsafe building codes.~~

Reletter subparagraphs (d), (e), and (f) accordingly

* * *

(gf) ~~Special uses. Special uses are residential/institutional uses that~~ Rooming houses are no longer permitted in the districts. ~~Such uses~~ Rooming houses may continue if they comply with the standards and criteria of this subsection within one year from the effective date of this legislation. ~~The following uses are identified as special uses: residential treatment facilities, rooming houses, emergency shelter homes, group care homes, and community residential homes of seven or more residents.~~ Beginning November 1, 2008 and thereafter, all ~~special use facilities~~ rooming houses shall provide the following information to the Director:

(1) Information showing or depicting the accurate square footage of the facility's livable interior space and number of habitable rooms, as it existed on December 21, 2000; and

~~(2) Licensure or permit information from the relevant State agency showing continuous operation of the~~

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1 ~~facility from prior to December 21, 2000; and~~

2 (32) ~~License or permit information or a~~Affidavit ~~if such~~
3 ~~information is not available as to number of~~
4 residents authorized to legally occupy the ~~licensed~~
5 ~~or permitted facility~~rooming house on or before
6 December 21, 2000; and

7 (43) Number of persons considered by the ~~facility~~rooming
8 house to be occupying the facility ~~as full time~~
9 ~~staff and/or their immediate family members.~~

10
11 Those ~~special use facilities~~rooming houses which provide the above
12 information in a timely manner are considered legally non-
13 conforming and shall be allowed to continue operation until such
14 time as the legally non-conforming status ceases, as provided in
15 this Chapter. As relating to the information submitted as required
16 in this subsection, ~~special use facilities~~rooming houses shall not
17 expand their square footage ~~of the facility~~, relocate the facility
18 or increase the number of ~~licensed~~ residents in the facility.
19 ~~Additionally, if a facility increases the number of staff,~~
20 ~~including immediate family members, the facility shall notify the~~
21 ~~Director within 90 days of such increase.~~

22 The city shall through annual inspections also ensure that such
23 rooming house uses comply with the following standards, and if the
24 property is not in compliance with the standards after a reasonable
25 time allowed for correction of the violation, if the facility fails
26 to timely submit the information required herein, or if the rooming
27 house ~~special~~ use intensifies, expands, or relocates ~~er fails to~~
28 ~~report increases in staff in a timely manner, the special~~rooming
29 house use shall not be allowed to continue.

30 Notwithstanding anything to the contrary in the zoning code, the

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1 occupancy of a ~~special use facility~~ rooming house shall not exceed
 2 any applicable occupancy limitation otherwise required by any
 3 federal, state or local law, rule or regulation.

4 (1) Chain link fences shall not be allowed in any yards along
 5 public streets (not including alleys), and must be
 6 located at least six feet behind the closest vertical
 7 plane of the primary structure.

8 (2) The use shall comply with all applicable City property
 9 maintenance and unsafe building codes.

10 (3) Twenty-four-hour, on-site management shall be required.

11 ~~(4) New rooming houses are not permitted. Existing rooming~~
 12 ~~houses shall be identified by one or more of the~~
 13 ~~following existing conditions, each of which shall create~~
 14 ~~a rebuttable presumption that a building is a rooming~~
 15 ~~house.~~

16 ~~(A) Signs that indicate rooms, beds, or living~~
 17 ~~spaces for rent,~~

18 ~~(B) Interior locks, partitions, hasps, appliances~~
 19 ~~such as electric fry pans, toaster ovens,~~
 20 ~~refrigerators, etc.,~~

21 ~~(C) Individual storage of food,~~

22 ~~(D) Alphabetical, numeric, or other labeling of~~
 23 ~~bedrooms or living areas,~~

24 ~~(E) Alterations to structures which enhance or~~
 25 ~~facilitate its use as a rooming house.~~

26
 27 **Section 6. Amending Section 656.1601, Ordinance Code.**

28 Chapter 656, (Zoning Code), Part 16 (Definitions), Section 656.1601
 29 (Definitions), Ordinance Code, is hereby amended to read as
 30 follows:

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* * *

PART 16. DEFINITIONS

Sec. 656.1601. Definitions.

* * *

~~Community residential home is a dwelling unit licensed to serve clients of CFS, which provides a living environment for up to 14 residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional and social needs of the residents. The residents of the community residential home are not to be related to the owner/operator by law, blood, marriage or adoption.~~ means a dwelling unit licensed to serve residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Families or licensed by the Agency for Health Care Administration which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents and shall be limited to those persons defined as "residents" in F.S. § 419.001(1)(d). A community residential home is not also a rooming house or a boardinghouse.

* * *

Disabled person means (1) individuals with a physical or mental impairment that substantially limits one or more major life activities, (2) individuals who are regarded as having such impairment; and (3) individuals with a record of such impairment. The term physical or mental impairment as defined by the Fair

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1 Housing Act includes, but is not limited to, diseases and
2 conditions such as orthopedic, visual, speech and hearing
3 impairments, cerebral palsy, autism, epilepsy, muscular dystrophy,
4 multiple sclerosis, cancer, heart disease, diabetes, HIV infection,
5 developmental disabilities, mental illness, drug addiction (other
6 than addiction caused by current, illegal use of a controlled
7 substance), and alcoholism. The term *major life activity* includes,
8 but is not limited to, seeing, hearing, walking, breathing,
9 sleeping, standing, lifting bending, reading, performing manual
10 tasks, concentrating, thinking, communicating, caring for one's
11 self, learning, speaking, and working. Juvenile offenders and sex
12 offenders or predators, by virtue of that status, are not disabled
13 persons. Persons who would pose a direct threat to the health or
14 safety of other individuals or result in substantial physical
15 damage to the property of others are not protected by the Fair
16 Housing Act or the Americans with Disabilities Act. A
17 determination that an individual poses a direct threat must rely on
18 an individualized assessment that is based on reliable objective
19 evidence (for example, current conduct or a recent history of overt
20 acts). The assessment must consider: (1) the nature, duration,
21 and severity of the risk of injury; (2) the probability that injury
22 will actually occur; and (3) whether there are any reasonable
23 accommodations that will eliminate or significantly reduce the
24 direct threat.

* * *

26 *Dwelling, multiple-dwelling use* means, for purposes of
27 determining whether a lot is in multiple-dwelling use, the
28 following:

- 29 (1) Multiple-dwelling uses in which individual dwelling units
30 are intended to be rented and maintained under central

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1 ownership and management; those which are under collective
2 ownership and management, including cooperative
3 apartments, condominiums and the like; row houses or
4 townhouses in individual ownership; and all other forms of
5 multiple dwellings regardless of ownership management,
6 taxation or other consideration, where the form does not
7 meet the requirements of this Zoning Code for a single-
8 family dwelling. A multiple-dwelling use may contain
9 residents who receive supportive services, whether
10 provided by the owner, management or third parties.
11 Owners and managers may provide or coordinate supportive
12 services for tenants. Ancillary services whose primary
13 purpose is to support tenants may be located onsite,
14 including but not limited to laundry facilities, day care
15 and after-school programs for children, gymnasiums,
16 swimming pools, concierge services, and coordination of
17 care for disabled persons which are within the scope of
18 supportive services.

* * *

20 Dwelling, multiple-family means a building containing more
21 than one dwelling unit.

22 Dwelling, one-family or single-family means a building
23 containing only one dwelling unit. The term is not to be construed
24 as including recreational vehicles, tents, houseboats or other
25 forms of temporary or portable house. Manufactured homes and
26 modular homes which comply with the provisions of Subpart C, Part 4
27 of the Zoning Code are considered single-family dwellings. For the
28 purposes of this Zoning Code, row houses, townhouses, condominiums,
29 cooperative apartments or other form of dwelling units which are
30 not in individual detached buildings meeting all the requirements

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1 of a single-family dwelling shall not be construed to be single-
2 family dwellings. A building in which a room or other portion is
3 rented to or occupied by someone other than a part of the family
4 shall not be considered to be a single-family dwelling. A dwelling
5 unit which otherwise meets the definition of a community
6 residential home or the definition of a group care home shall be
7 deemed a single family unit and a noncommercial, residential use if
8 that unit has six (6) or fewer residents, and meets the performance
9 standards and development criteria of Part 4 of the Zoning Code, if
10 applicable.

11 *Dwelling unit* means a room or rooms connected together
12 constituting a residential use as a separate, independent
13 housekeeping establishment for a family, and containing sleeping
14 facilities and one kitchen. The dwelling unit may be for owner
15 occupancy or for rental or lease on a weekly, monthly or longer
16 basis. It shall be physically separated from other rooms or
17 dwelling units which may be in the same structure and containing
18 sleeping facilities and one kitchen. A dwelling unit's residents
19 may receive supportive services provided by or coordinated by a
20 landlord, government agencies, third party providers, or others,
21 whether or not as part of a government-funded program, including
22 visits to the dwelling unit relating to such services. It is
23 intended that a dwelling unit not be considered a rooming house,
24 substance abuse treatment facility, or group care home by virtue of
25 the residents receiving supportive services that are subordinate
26 and ancillary to the residential character of the use.

* * *

27
28 *Group care home* means a facility occupied by seven or more
29 persons whether operated for profit or not, which provides, for a
30 period exceeding 24 hours, one or more personal services for

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1 persons who required these personal services and are not related to
2 the owner or administrator by law, blood, marriage or adoption and
3 not in foster care. The personal services, in addition to housing
4 and food services, may include personal assistance with bathing,
5 dressing, housekeeping, adult supervision, emotional security and
6 other related services but may not include inpatient medical
7 services. Permissible services in a group care home include
8 supportive services. A group care home is not also a rooming house
9 or boarding house.

* * *

11 Major life activity - See "Disabled person."

12 Physical or mental impairment - See "Disabled person."

13 Reasonable accommodation as to the Zoning Code means any
14 change, modification or adjustment to a Zoning Code standard that
15 may be necessary for a person with a disability to have an equal
16 opportunity to use and enjoy a dwelling, including its public and
17 common use spaces. An accommodation is necessary if there is a
18 disability related need for the accommodation.

* * *

20 Residential treatment facility means a facility other than a
21 hospital or nursing home, having one or more supervisors residing
22 on the premises and providing board, lodging, medication and other
23 treatment and counseling for persons progressing from relatively
24 intensive treatment for criminal conduct, delinquency, mental or
25 emotional illness, alcoholism, drug addiction or similar
26 conditions, as well as providing relatively intensive diagnostic or
27 therapeutic services for alcoholism, drug abuse, mental illness,
28 emotional problems, developmental disabilities or similar
29 conditions for its residents. A residential treatment facility
30 shall not be deemed to include a nursing home, hospital, group care

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1 home, or emergency shelter home, nor shall a dwelling unit or
2 multiple-family use be considered a residential treatment facility
3 by virtue of the residents receiving supportive services
4 coordinated by a landlord or a third party that are subordinate and
5 ancillary to the residential character of the use. Nothing shall
6 prevent a residential treatment facility from having out patients.
7 The residents of the residential treatment facility are generally
8 intending to return to full normal participation in community life.

* * *

10 Rooming houses means a building in which sleeping
11 accommodations are offered to the public where rentals are for a
12 period of a week or longer, ~~and~~ occupancy is generally by resident
13 rather than transient, rentals are for use of a bedroom with shared
14 access to the primary kitchen and/or bathroom(s) shared with
15 occupants of other rented bedrooms, and where residents do not
16 operate as a family. Existing rooming houses shall be identified
17 by one or more of the following existing conditions, each of which
18 shall create a rebuttable presumption that a building is a rooming
19 house:

20 (a) Signs that indicate rooms, beds, or living spaces for
21 rent;

22 (b) Interior locks, partitions, hasps, appliances such as
23 electric fry pans, toaster ovens, refrigerators, etc.;

24 (c) Individual storage of food;

25 (d) Alphabetical, numeric, or other labeling of bedrooms or
26 living areas;

27 (e) Alterations to structures which enhance or facilitate its
28 use as a rooming house.

* * *

30 Supportive services are services offered or provided to

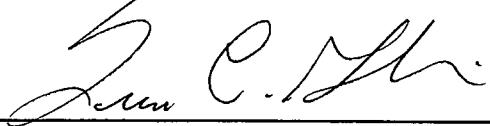
SUBSTITUTED AND AMENDED 5/23/17

1 residents of a dwelling that are subordinate and ancillary to the
2 residential character of the use and that provide assistance to or
3 aid in the resident's life success or well-being. Supportive
4 services include, but are not limited to, counseling, improving
5 knowledge and educational skills associated with substance abuse
6 prevention, English as a Second Language, literacy, health
7 education, consumer education, learning skills that can be used to
8 secure and retain a job, food and groceries, credit counseling,
9 life skills training, outpatient mental health services, outreach
10 services, community-based substance abuse treatment (such as an
11 Alcoholics Anonymous meeting, but not inpatient detoxification or
12 inpatient treatment), transportation, and health service. It is
13 the intent of the Zoning Code that this definition includes those
14 supportive services as are provided in grant programs for permanent
15 supportive housing under the U.S. Housing and Urban Development
16 Department's Continuum of Care Program.

* * *

17
18 **Section 7. Effective Date.** This ordinance shall become
19 effective upon signature by the Mayor or upon becoming effective
20 without the Mayor's signature.

21
22 Form Approved:

23 
24 _____

25 Office of General Counsel

26 Legislation Prepared By: Susan C. Grandin

27 GC-#1127902-v1-2017-36-E.doc

ORDINANCE 2017-36-E

CERTIFICATE OF AUTHENTICATION

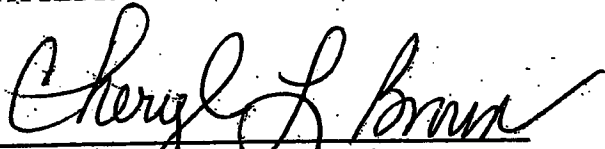
ENACTED BY THE COUNCIL

May 23, 2017



LORI BOYER
COUNCIL PRESIDENT

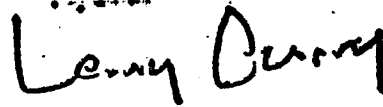
ATTEST:



DR. CHERYL L. BROWN
COUNCIL SECRETARY

APPROVED: _____

MAY 25 2017



LENNY CURRY, MAYOR



APPENDIX C

CERTIFICATION OF TRAINING AND RECEIPT OF CONSENT DECREE

_____ I attended training on the federal Fair Housing Act and Title II of the Americans with Disabilities Act. I have had all of my questions concerning these topics answered to my satisfaction.

_____ I watched a videotape of the complete training session provided pursuant to the Consent Decree referenced below. I have had all of my questions concerning these topics answered to my satisfaction.

I have also received a copy of the Consent Decree entered in *United States v. City of Jacksonville*, Case No. 3:15-CV-1411, filed in the United States District Court for the Middle District of Florida. I have read and understand these documents and have had my questions about these documents answered. I understand my legal responsibilities under the Consent Decree and will comply with those responsibilities. I further understand that the Court may impose sanctions on the City of Jacksonville if I violate any provision of this Decree.

Date

Employee/Agent Name (Print)

Employee/ Agent Signature