CITY OF HOLLY HILL, FLORIDA

CITY COMMISSION

AGENDA ● MAY 24, 2022

City Commission Chamber **Regular City Commission Meeting** **6:00 PM**

CITY HALL
1065 RIDGEWOOD AVENUE
HOLLY HILL, FL 32117

City Clerk's office: (386) 248-9441 - Fax: (386) 248-9448

HOLLY HILL
FLORIDA

City Commission Chamber
City Hall
1065 Ridgewood Avenue
Holly Hill, FL 32117

CITY COMMISSION MEMBERS

Mayor
Chris Via

District 1 - Commissioner
John Penny

District 2 - Commissioner
Penny Currie

District 3 - Commissioner
John C. Danio

District 4 - Commissioner
Roy Johnson

CITY MANAGER
Joseph Forte

CITY CLERK
Valerie Manning

1. CALL TO ORDER

a. Roll Call
b. Invocation by City Commissioner Penny Currie
c. Pledge of Allegiance

2. RECESS THE CC MTG & CONVENE AS THE CRA

3. CRA AGENDA

1. –2022-R-34 A Resolution of the Community Redevelopment Agency of the City of Holly Hill, Florida, Authorizing the City Manager to Sign a Proposal Agreement Between the Community Redevelopment Agency of the City of Holly Hill and Rick Hamilton; Providing for Severability; and Providing for an Effective Date.

   (Requested by Joseph Forte, City Manager)

4. ADJOURN AS THE CRA & RECONVENE THE CC MTG

5. PUBLIC COMMENTS

6. APPROVAL OF MINUTES

1. Minutes - May 10, 2022 Regular City Commission Meeting and May 10, 2022 Workshop

   (Requested by Valerie Manning, City Clerk)

7. CONSENT AGENDA - ITEMS (1 - 3)

The action proposed is stated for each item on the Consent Agenda. Unless a City Commissioner removes an item from the Consent Agenda, no discussion on individual items will occur and a single motion will approve all items. Is there anyone in the audience who wishes to speak on any item on the Consent Agenda?

1. Resolution –2022-R-35 A Resolution of the City Commission of the City of Holly Hill, Florida, Authorizing the City Manager to Sign a Proposal Agreement Between the City of Holly Hill and Rick Hamilton; Providing for Severability; and Providing for an Effective Date.

   (Requested by Joseph Forte, City Manager)

2. Resolution –2022-R-36 A Resolution of the City Commission of the City of Holly Hill, Florida, Approving the First One (1) Year Extension of the RFQ 18-PW-03 Agreement with Sea Diversified, Inc., and Approving a Proposal of $56,340.00 with Sea Diversified, Inc., for the Provision of Consruction Administrative Support Services, Inspections and Monitoring for the Sunrise Park North – Southern Bulkhead Replacement Project, and Authorizing the City Manager to Execute the Same; Providing for Severability; and Providing for an Effective Date.

   (Requested by Antoine Khoury, Public Works)

3. MOU Panama City Beach PD and HollY Hll Police Department

   (Requested by Jeff Miller, Police)

8. REGULAR AGENDA

1. Request for a Reasonable Accommodation to the Fair Housing Act

   (Requested by Joseph Forte, City Manager)

2. Ordinance –2022-O-3052 FIRST READING - an Ordinance of the City of Holly Hill, Florida, Amending Chapter 78 – General Provisions, Section 78-14 – Definitions, to Add Definitions, and Amend Chapter 114 – Zoning, Article Iii – Supplementary District Regulations, Division 4 – Buildings and Structures, to Add a New Section Titled Shipping Containers, Renumber Existing Sections as Needed, and Add Definitions to Section 114-746 – Specific Terms Defined, of the Land Development Regulations; and Providing for Conflicts, Severability, Applicability, and an Effective Date.

   (Requested by Brian Walker, Board of Planning and Appeals)

9. PUBLIC HEARINGS

Please silence any cell phone, pager or noise making device as not to interrupt the meeting. Staff will introduce each item for consideration, with comments and recommendations. The applicant or appellant and supporters will be heard first. Those in opposition to the request will be heard next. Comments should be restricted to pertinent information regarding the agenda item under discussion. Out of courtesy to others, we ask that speakers keep their comments brief and try to limit these comments to information not previously discussed. Speakers should state their name and address clearly for the record. The City Clerk's office is required to retain any documents, photographs, drawings, etc. that are shown to the City Commissioners in support of a position. The City Commission may ask questions of speakers or of staff members. The Mayor will then ask the City Commission to make a recommendation or motion. Once a motion has been made and seconded, discussion will be closed to the floor. Following City Commission discussion, a vote will be taken. During voting, Commissioners who do not cast objecting votes are considered to have voted in support of the motion.

1. Ordinance –2022-O-3051 SECOND READING - an Ordinance of the City of Holly Hill, Florida, Approving the Eighth Amendment to Marina Grande Residential Based Mixed Use Planned Unit Development (MPUD) Development Agreement to Add Permitted Uses; Providing for Conflicting Ordinances; Providing for Severability; and Providing an Effective Date.

   (Requested by Brian Walker, Board of Planning and Appeals)

10. COMMUNICATIONS

A. City Manager & Staff Comments
B. City Attorney Comments
C. City Commission Comments
D. Mayor's Comments

11. ADJOURNMENT

Website Address – www.hollyhillfl.org (City Clerk)

NOTICE – If any person decides to appeal any decision of the City Commission at this meeting, he/she will need a record of the proceedings and, for that purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The City does not prepare or provide such a record.



For special accommodations, please notify the City Clerk's Office at least 72 hours in advance. (386) 248-9441



Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained from the City Clerk's Office.

In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Commission proceedings should contact the City Clerk's Office no later than three (3) days prior to the proceedings.

STAFF REPORT
CITY OF HOLLY HILL, FLORIDA

City Commission
CRA Resolution

MEETING DATE: **May 24, 2022**
FROM: **Joseph Forte**
SUBJECT: **A Resolution of the Community Redevelopment Agency of the City of Holly Hill, Florida, Authorizing the City Manager to Sign a Proposal Agreement Between the Community Redevelopment Agency of the City of Holly Hill and Rick Hamilton; Providing for Severability; and Providing for an Effective Date.**
NUMBER: **2022-R-34**
APPLICANT:
PLANNER:

DISCUSSION:

As part of the development of Pictona, Phase 2 a championship court is being constructed capable of seating in excess of 1,000 people. Pictona and its staff are responsible for scheduling and operating pickleball tournaments and the City of Holly Hill and its staff are responsible for scheduling other entertainment and programs. The city does not have a recreation department or any personnel that has a background in promotions and entertainment programs. In order to begin preparing for future entertainment programs the city manager would like to engage, by contract, a promoter with experience to handle all such entertainment activities.

After speaking with a few promoters, the City Manager would like to enter into an agreement with Mr. Rick Hamilton. Mr. Hamilton has made a career of being an entertainment promoter and has a proven record from his past experience working for the Ocean Center many years ago.

Attached is a proposal from Mr. Hamilton that has been reviewed by the City Attorney and negotiated with Mr. Hamilton.

The City Manager is entering into this agreement under the city's purchasing policy

2.31 NON-COMPETITIVE NEGOTIATION

Non-competitive negotiation may be used when the award of a contract is not feasible under any other formal procedure. Circumstances under which a contract may be awarded by noncompetitive negotiation are limited to the following: Consultant Services, other than those regulated by § 287.055, Fla. Stat.;

FISCAL ANALYSIS:

For the first 5 months of the agreement until the end of the October 2022 the contractual cost is a flat rate of $2,000 per month plus agreed upon reimbursable expenses. The next year, the monthly rate would increase to $3,000 per month for an annual cost of $36,000 plus agreed upon

reimbursable expenses.

Additionally, any sponsorship Mr. Hamilton secures would entitle him to 10% of the contract value. This cost would be paid by the sponsor.

Additional expenses will be incurred to fund the actual performances. With City Commission and CRA approval.

STAFF RECOMMENDATION:

Staff recommends the Community Redevelopment Agency approve the proposal and authorize the city manager to execute the proposal as an agreement.

COMMISSION GOAL:

Goal #3: Implement the CRA master plan with a focus on the best utilization of vacant properties and blighted properties in the city. Attention should also focus on infrastructure improvements within the district and strategies to encourage private investment and business retention.

MOTION:

TO APPROVE THE PROPOSAL AND AUTHORIZE THE CITY MANAGER TO SIGN THE PROPOSAL AN AGREEMENT.

ATTACHMENTS:

- Rick Hamilton Proposal - Promoter (PDF)

CRA Resolution No. 2022-34

A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF HOLLY HILL, FLORIDA, AUTHORIZING THE CITY MANAGER TO SIGN A PROPOSAL AGREEMENT BETWEEN THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF HOLLY HILL AND RICK HAMILTON; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF HOLLY HILL, FLORIDA, AUTHORIZING THE CITY MANAGER TO SIGN A PROPOSAL AGREEMENT BETWEEN THE COMMUNITY REDEVELOPMENT AGENCY OF HOLLY HILL AND RICK HAMILTON; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The Community redevelopment Agency of the City of Holly Hill desires to enter into a business relationship with Mr. Rick Hamilton in order to provide entertainment programs and events at the Championship Court at Pictona ; and

WHEREAS, the Mr. Hamilton has a long history of serving as an event and entertainment promoter for felicities such as the Ocean Center.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF HOLLY HILL, FLORIDA:

SECTION 1. That the City Manager is hereby authorized to sign the proposal agreement, attached.

SECTION 2. That the initial term of this agreement shall commence on June 1, 2022 and end on October 31, 2022. The implementation term shall commence on November 1, 2022 and terminate pm October 31, 2023. The proposal agreement may renew for up to three (3) one year periods.

SECTION 3. SEVERABILITY. If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Resolution.

SECTION 4. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

APPROVED AND AUTHENTICATED on this 24th day of MAY, 2022.

RJH

Rick J Hamilton | 524 Barefoot Life Lane | Daytona Beach, FL 32124 | 813.285.1358 | rickjhamilton@gmail.com

Proposal for Pictona Event Booking and Management

Rick Hamilton, Contractor, is providing this information to the City of Holly Hill, City, to provide booking of the event space for all events at Pictona exclusive of any Pickle Ball events and activities and exclusive of the Holly Hill Arts Festival.

SCOPE OF WORK

Contractor proposes to provide the following services and administrative oversight to implement and manage:

- Marketing and Public Relations to establish Pictona as a new venue in the marketplace
- Establishment of social media outlets to create presence in the market segment
- Development and management of website content for the new venue for public events
- Establishment of public relations media contacts and network to provide announcement and schedule of events
- Development of a primary events calendar and establishment of network for access
- Development and implementation of a events booking mechanism
- Development and implementation of an events license for the venue
- Development and implementation of an event settlement system to provide accountability
- Development and implementation of an event services scheduling system to include
    - Security
    - Police
    - Emergency Services
    - First Aid
    - Ushers, stagehands, and event staff
    - Ticket production, sales, and management
    - Food and Beverage services
    - Production services
    - Janitorial services before, during, and after each event
    - Site management
- Event management and production coordination
- Event settlement procedure and coordination with the City of Holly Hill
- Event reporting system to the City of Holly Hill
- Sponsorship development
- Membership for the City of Holly Hill in Florida Venue Managers Association
- Coordination of event activities with other community entities

PROPOSED COMPENSATION

INITIAL COMMITTMENT

Contractor will provide development and set up of systems, forms, documents, and coordination with the City of Holly Hill to insure compatibility and compliance with the City's administrative officials and compliance with all local, state, and federal rules and regulations.

Public relations and marketing to begin development of awareness for potential future users of the venue with graphics of site, capacities, and resources. This activity is 5 months starting June 1 through October 31, 2022. Cost is $2,000/month for a total of $10,000.

EVENT TYPES

Attachment: Rick Hamilton Proposal - Promoter (2022-R-34 : Promoter and Events Coordinator Agreement)

The following event types will be considered for the venue:

- Concerts
  - Country
  - Pop
  - Tribute
  - Rock and Soul
  - Jazz
  - Christian
  - Gospel
- Theatrical productions
- Pageants
- Comedians
- Social events and homecomings
- Vehicle events and competitions
- Trade shows
- Meetings
- Promotions
- Arts and crafts
- Festivals
- Competitive arts
  - Cheerleading
  - Dance
  - Drill teams
  - Sporting events

Contractor will work and coordinate with City administration for development of hybrid events of specific interest or niche interest in the City of Holly Hill for example, the National Holly Association, Holly merchandise show, and others.

SPONSORSHIPS

Contractor will seek to develop title sponsorships for events and for the venue with coordination and approval of the City. Contractor shall receive for each successful contract execution compensation equal to 10% of the total contract value.

IMPLEMENTATION

All activities and documents in the initial phase approved by the City of Holly Hill administrative officials shall begin on November 1, 2022, on an annual basis at a proposed cost of $3,000 per month for a total annual cost to the City of $36,000 for Contractor services. For the duration of this agreement the Contractor will provide an average of 20-man hours per week exclusively to the City. Work shall be conducted in City provided office space, remotely, or offsite with promoters and other contractors. Contractor will provide additional man hours as needed for successful completion of each event and will maintain onsite presence at each event as needed. This proposal agreement may renew for up to Three (3) additional one (1) year periods.

ADDITIONAL CONSIDERATIONS

Cost and expenses for additional items not covered in this proposal shall be presented to City for consideration and approval. For example: FVMA membership, marketing and promotional materials,

Attachment: Rick Hamilton Proposal - Promoter (2022-R-34 : Promoter and Events Coordinator Agreement)

professional travel and meetings, travel for marketing of venue for additional sales opportunities, graphics and/or printing, website development and management, publishing, electronic media.

TERMINATION

The Contractor and the City have the right to terminate this agreement at any time with 30 days notification by written or electronic notification with acknowledgement.

Rick Hamilton
Promoter

_____ _____

Joseph Forte
City manager

_____ _____

Attachment: Rick Hamilton Proposal - Promoter (2022-R-34 : Promoter and Events Coordinator Agreement)

STAFF REPORT
CITY OF HOLLY HILL, FLORIDA

City Commission
Agenda Item

MEETING DATE: **May 24, 2022**
FROM: **Valerie Manning**
SUBJECT: **Minutes - May 10, 2022 Regular City Commission Meeting and May 10, 2022 Workshop**
NUMBER: **(ID # 3748)**
APPLICANT:
PLANNER:

DISCUSSION:

Minutes from May 10, 2022 regular City Commission meeting and May 10, 2022 workshop on various items of discussion.

MOTION:

Approve both sets of minutes from May 10, 2022 as submitted by staff.

- Minutes - May 10, 2022 - Regular City Commission meeting (PDF)
- Minutes - May 10, 2022 - Workshop (PDF)

CITY OF HOLLY HILL, FLORIDA

CITY COMMISSION

MINUTES ● MAY 10, 2022

City Commission Chamber **Regular City Commission Meeting** **6:00 PM**

CITY HALL
1065 RIDGEWOOD AVENUE
HOLLY HILL, FL 32117

City Clerk's office: (386) 248-9441 - Fax: (386) 248-9448

Attachment: Minutes - May 10, 2022 - Regular City Commission meeting (3748 : Minutes)

1. CALL TO ORDER

a. Roll Call

Attendee Name	Title	Status	Arrived
Chris Via	Mayor	Present	
John Penny	District 1 - Commissioner	Present	
Penny Currie	District 2 - Commissioner	Present	
John C. Danio	District 3 - Commissioner	Present	
Roy Johnson	District 4 - Commissioner	Present	

b. Invocation by City Commissioner John Penny
Commissioner Penny led the invocation.

c. Pledge of Allegiance
Mayor Via led the Pledge of Allegiance to the Flag.

2. PUBLIC COMMENTS

The following individual spoke to the Mayor and City Commissioners:

Marta Pascale, Adams Cameron Realty thanked the City for allowing her to be a part of selling the city's properties over the last couple of years.

3. APPROVAL OF MINUTES

1.

Minutes - April 26, 2022 - Regular City Commission Meeting

(Requested by Valerie Manning, City Clerk)
Mayor Via opened public participation. No one spoke.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Penny Currie, District 2 - Commissioner
SECONDER:	Roy Johnson, District 4 - Commissioner
AYES:	Via, Penny, Currie, Danio, Johnson

Enacted and approved this 10th day of May, 2022, in Holly Hill

4. CONSENT AGENDA - ITEMS (1 - 5)

Mayor Via asked if there was anyone who wished to speak on any item on the Consent Agenda or if any member of the Commission would like to discuss an item. There was no one.

1. –2022-R-28 Resolution

A Resolution of the City Commission of the City of Holly Hill, Florida, Approving the Negotiated Rates to be the Existing Contract with the Consultant and Authorizing the City Manager to Execute the Same; Providing for Severability; and Providing an Effective Date.

(Requested by Antoine Khoury, Public Works)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	John Penny, District 1 - Commissioner
SECONDER:	John C. Danio, District 3 - Commissioner
AYES:	Via, Penny, Currie, Danio, Johnson

RESOLUTION
2022-R-28
A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, APPROVING THE NEGOTIATED RATES TO BE THE EXISTING CONTRACT WITH THE CONSULTANT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, APPROVING THE NEGOTIATED RATES TO BE THE EXISTING CONTRACT WITH THE CONSULTANT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on March 22, 2022 via 2022-R-23 the City Commission approved Mead & Hunt as the firm to perform the proposed ARPA identified projects as advertised in the RFQ 22-WW-02; and

WHEREAS, the agenda item also authorized the Public Works Director to negotiate rates and submit to the commission for approval; and

WHEREAS, the rates have been negotiated.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA:

Attachment: Minutes - May 10, 2022 - Regular City Commission meeting (3748 : Minutes)

SECTION 1. That the City Commission of the City of Holly Hill approve the negotiated rates to be the existing contract with the consultant along with the required E-Verify signed form.

SECTION 2. SEVERABILITY. If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Resolution.

SECTION 3. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

APPROVED AND AUTHENTICATED on this 10th day of MAY, 2022.

Enacted and approved this 10th day of May, 2022, in Holly Hill

2. -2022-R-29 Resolution

A Resolution of the City Commission of the City of Holly Hill, Florida, Authorizing the Agreement with Mead and Hunt to Provide Professional Services for the FY 2022 Roadway Resurfacing Program Not to Exceed $63,324.03; Pursuant to an Existing Continuing Contract; Providing for Severability; and Providing an Effective Date.

(Requested by Antoine Khoury, Public Works)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	John Penny, District 1 - Commissioner
SECONDER:	John C. Danio, District 3 - Commissioner
AYES:	Via, Penny, Currie, Danio, Johnson

RESOLUTION
2022-R-29
A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, AUTHORIZING THE AGREEMENT WITH MEAD AND HUNT TO PROVIDE PROFESSIONAL SERVICES FOR THE FY 2022 ROADWAY RESURFACING PROGRAM NOT TO EXCEED $63,324.03; PURSUANT TO AN EXISTING CONTINUING CONTRACT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, AUTHORIZING THE AGREEMENT WITH MEAD AND HUNT TO PROVIDE PROFESSIONAL SERVICES FOR THE FY2022 ROADWAY RESURFACING PROGRAM NOT TO EXCEED $63,324.03 PURSUANT TO AN EXISTING CONTINUING CONTRACT; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Attachment: Minutes - May 10, 2022 - Regular City Commission meeting (3748 : Minutes)

WHEREAS, the City has planned for a City-wide multi-year resurfacing program; and

WHEREAS, the City desires to proceed with the work required for the FY2022 portion of the program; and

WHEREAS, the scope of services includes design, permitting, bidding services, construction administration, and inspection; and

WHEREAS, Mead and Hunt have also established an allowance for a geotechnical sub-consultant effort; and

WHEREAS, there is an existing continuing contract between the City and Mead and Hunt pursuant to the Consultants Competitive Negotiations Act.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA:

SECTION 1. That the City Commission of the City of Holly Hill does hereby authorize the City Manager to enter into an agreement with Mead and Hunt, Inc., to provide professional services for the FY2022 Roadway Resurfacing Program not to exceed $63,324.03 pursuant to the existing continuing contract with Mead and Hunt.

SECTION 2. SEVERABILITY. If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Resolution.

SECTION 3. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

APPROVED AND AUTHENTICATED on this 10th day of MAY, 2022.

Enacted and approved this 10th day of May, 2022, in Holly Hill

3. –2022-R-30 Resolution

A Resolution of the City Commission of the City of Holly Hill, Florida, Approving Change Order #1 in the Amount of $9,975.00 for Landscaping Improvements at the Pictona Complex and Approving Change Order #2 in the Amount of $8,250.00 for Landscaping Improvements at the YMCA to Agreement 21-PW-01 with RJ Landscaping Contractors, Inc., Approving a Budget Amendment Request to Fund This Project and Authorizing the City Manager to Execute the Same; Providing Severability; and Providing an Effective Date.

(Requested by Antoine Khoury, Public Works)

Attachment: Minutes - May 10, 2022 - Regular City Commission meeting (3748 : Minutes)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	John Penny, District 1 - Commissioner
SECONDER:	John C. Danio, District 3 - Commissioner
AYES:	Via, Penny, Currie, Danio, Johnson

RESOLUTION
2022-R-30
A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, APPROVING CHANGE ORDER #1 IN THE AMOUNT OF $9,975.00 FOR LANDSCAPING IMPROVEMENTS AT THE PICTONA COMPLEX AND APPROVING CHANGE ORDER #2 IN THE AMOUNT OF $8,250.00 FOR LANDSCAPING IMPROVEMENTS AT THE YMCA TO AGREEMENT 21-PW-01 WITH RJ LANDSCAPING CONTRACTORS, INC., APPROVING A BUDGET AMENDMENT REQUEST TO FUND THIS PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, APPROVING CHANGE ORDER #1 IN THE AMOUNT OF $9,975.00 FOR LANDSCAPING IMPROVEMENTS TO THE ENTRANCE OF HOLLYLAND PARK & PICTONA COMPLEX AND APPROVING CHANGE ORDER #2 IN THE AMOUNT OF $8,250.00 AT THE YMCA AND A PROPOSED CHANGE ORDER #3 NOT TO EXCEED $2,000 FOR LANDSCAPING IMPROVEMENTS TO THE RAISED LANDSCAPING BED BEHIND THE POLICE DEPARTMENT AND CHANGE ORDER #4 NOT TO EXCEED $10,000 FOR THE LAND SOUTH OF THE CITY ANNEX BUILDING, FOR LANDSCAPING IMPROVEMENTS TO AGREEMENT 21-PW-01 WITH RJ LANDSCAPING CONTRACTORS, INC., APPROVING A BUDGET AMENDMENT REQUEST TO FUND THESE PROJECTS AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the city has an active agreement with RJ Landscaping Contractors, Inc., to provide US1 median landscape maintenance; and

WHEREAS, there are considerable savings in the electric charging stations project approved by the City Commission; and

WHEREAS, staff recommend that these savings be used to provide landscaping improvements to the entrance to Hollyland Park & Pictona Complex, the YMCA facility, the raised landscaping bed behind the Police Department and the land south of the City Annex building.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION

Attachment: Minutes - May 10, 2022 - Regular City Commission meeting (3748 : Minutes)

OF THE CITY OF HOLLY HILL, FLORIDA:

SECTION 1. That the City Commission of the City of Holly Hill approve Change Order #1 for $9,975.00 for landscaping improvements to the Pictona Complex and approve Change Order #2 for $8,875.00 for landscaping improvements at the YMCA and Change Order # 3 for a cost not to exceed $2,000 for the raised landscaping bed behind the Police Department and Change Order #4 for a cost not to exceed $10,000 for the land south of the City Annex building to agreement 21-PW-01 with RJ Landscaping Contractors, Inc., and authorize the City Manager to execute the same.

SECTION 2. That the City Commission of the City of Holly Hill approve a budget amendment request to fund landscaping improvements at the entrance to Hollyland Park & Pictona Complex, the YMCA facility, the raised landscaping bed behind the Police Department and the land south of the City Annex building.

SECTION 3. SEVERABILITY. If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Resolution.

SECTION 4. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

APPROVED AND AUTHENTICATED on this 10th day of MAY, 2022.

Enacted and approved this 10th day of May, 2022, in Holly Hill

4. -2022-R-31 Resolution

A Resolution of the City Commission of the City of Holly Hill, Florida, Approving Sole Source Purchase of a Drive Shaft for Softener #1 at the Water Treatment Plant from WesTech Engineering, Inc., at a Cost Not to Exceed $139,200.00 and Authorizing the City Manager to Execute Any Necessary Price Agreements; Providing for Severability; and Providing for an Effective Date.

(Requested by Antoine Khoury, Public Works)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	John Penny, District 1 - Commissioner
SECONDER:	John C. Danio, District 3 - Commissioner
AYES:	Via, Penny, Currie, Danio, Johnson

RESOLUTION
2022-R-31
A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, APPROVING SOLE SOURCE PURCHASE OF A DRIVE SHAFT FOR SOFTENER #1 AT THE WATER TREATMENT PLANT FROM WESTECH ENGINEERING, INC., AT A COST NOT TO EXCEED $139,200.00 AND AUTHORIZING THE CITY MANAGER TO EXECUTE ANY NECESSARY PRICE

Attachment: Minutes - May 10, 2022 - Regular City Commission meeting (3748 : Minutes)

AGREEMENTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, APPROVING SOLE SOURCE PURCHASE OF A DRIVE SHAFT FOR SOFTENER #1 AT THE WATER TREATMENT PLANT FROM WESTECH ENGINEERING, INC., AT A COST NOT TO EXCEED $139,200.00 AND AUTHORIZING THE CITY MANAGER TO EXECUTE ANY NECESSARY PRICE AGREEMENTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City has a drive shaft unit for softener #1 at the Water Treatment Plant that needs replacing; and

WHEREAS, this drive shaft unit is manufactured by WesTech Engineering, Inc., who is a soul source provider; and

WHEREAS, there is budget available in 407-8110-580-6300 under project code 22WA02; and

WHEREAS, the requested amount for this authorization is $139,200.00.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA:

SECTION 1. That the City Commission of the City of Holly Hill approve the sole source purchase of a drive shaft unit for softener#1 at the Water Treatment Plant from WesTech Engineering, Inc.

SECTION 2. SEVERABILITY. If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Resolution.

SECTION 3. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

APPROVED AND AUTHENTICATED on this 10th day of MAY, 2022.

Enacted and approved this 10th day of May, 2022, in Holly Hill

5.

Volusia County Health Department - Revised Memorandum of Agreement with COHH for Rabies Control

(Requested by Valerie Manning, City Clerk)

Attachment: Minutes - May 10, 2022 - Regular City Commission meeting (3748 : Minutes)

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	John Penny, District 1 - Commissioner
SECONDER:	John C. Danio, District 3 - Commissioner
AYES:	Via, Penny, Currie, Danio, Johnson

Enacted and approved this 10th day of May, 2022, in Holly Hill

5. REGULAR AGENDA

1. –2022-R-32 Resolution

ARPA Plant Improvements Authorization to Proceed with the Construction Plans and CEI Services

(Requested by Antoine Khoury, Public Works)
Mayor Via opened public participation. No one spoke.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Roy Johnson, District 4 - Commissioner
SECONDER:	John C. Danio, District 3 - Commissioner
AYES:	Via, Penny, Currie, Danio, Johnson

RESOLUTION
2022-R-32
ARPA PLANT IMPROVEMENTS AUTHORIZATION TO PROCEED WITH THE CONSTRUCTION PLANS AND CEI SERVICES

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH MEAD AND HUNT, INC., TO PROVIDE PROFESSIONAL CONSULTANT SERVICES FOR THE ARPA PROJECT FOR THE ADDITION OF A THIRD (3RD) BTU TO THE CITY'S WWTP IN AN AMOUNT NOT TO EXCEED $736,000.00; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the city desires to increase treatment capacity and construct improvements to existing facilities at the City's WWTP as one of their ARPA Improvement Projects; and

WHEREAS, the capacity expansion will be accomplished by the addition of a third (3rd) BTU; and

WHEREAS, a third (3rd) BTU along with 2 other improvements which include the Headworks and Valve improvements of the waste water treatment plant; and

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WHEREAS, the city entered into a Professional Consultant Services Agreement with Mead and Hunt for ARPA Improvement Projects on March 22, 2022 and updated on May 10, 2022.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA:

SECTION 1. That the City Commission of the City of Holly Hill does hereby authorize the City Manager to enter into an agreement with Mead and Hunt, Inc., to provide professional services for the ARPA Improvement Projects for the addition of the third (3rd) BTU, Headworks and Valves Improvements at an amount not to exceed $736,000.00.

SECTION 2. If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Resolution.

SECTION 3. This Resolution shall take effect immediately upon its adoption.

APPROVED AND AUTHENTICATED on this 10th day of MAY, 2022.

Enacted and approved this 10th day of May, 2022, in Holly Hill

2. -2022-R-33 Resolution

A Resolution of the City of Holly Hill, Florida, Amending the Fiscal Year 2021-2022 Annual Operating Budget and Capital Budget, Appropriating Operating and Capital Projects for the Fiscal Year 2021-2022 Budget; Setting Forth Revenues and Expenditures; Providing for Severability; and Providing for an Effective Date.

(Requested by Susan Lincoln, City Commission)
Mayor Via opened public participation. No one spoke.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Penny Currie, District 2 - Commissioner
SECONDER:	Roy Johnson, District 4 - Commissioner
AYES:	Via, Penny, Currie, Danio, Johnson

RESOLUTION
2022-R-33
A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING THE FISCAL YEAR 2021-2022 ANNUAL OPERATING BUDGET AND CAPITAL BUDGET, APPROPRIATING OPERATING AND CAPITAL PROJECTS FOR THE FISCAL YEAR 2021-2022 BUDGET; SETTING FORTH REVENUES AND EXPENDITURES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Attachment: Minutes - May 10, 2022 - Regular City Commission meeting (3748 : Minutes)

RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING THE FISCAL YEAR 2021-2022 ANNUAL OPERATING BUDGET AND CAPITAL BUDGET, APPROPRIATING OPERATING AND CAPITAL PROJECTS FOR THE FISCAL YEAR 2021-2022; SETTING FORTH REVENUES AND EXPENDITURES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the city amends its annual budget as changes to the budget occur during the year, the city has amended the current budget for such changes by Budget Resolutions adopted during the current fiscal year; and

WHEREAS, the City of Holly Hill has accepted Federal Grant awards, donations and insurance settlements; and

WHEREAS, the City of Holly Hill City Commission adopted Resolution 2021-R-73 approving the Annual Operating Budget for Fiscal Year 2021-2022; and

WHEREAS, the City of Holly Hill City Commission desires to appropriate the necessary funds for continuation and completion of certain City operations and continuing projects and to set forth and appropriate certain revenues and expenses.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA:

SECTION 1. Amended Budget: The City Commission of the City of Holly Hill amends the Fiscal Year 2021-2022 budget by revising the budget in total pursuant to itemizations contained in Exhibit "A", which is attached hereto and incorporated herein.

SECTION 2. Effective Date. This Resolution shall become effective immediately upon its adoption.

APPROVED AND AUTHENTICATED on this 10th day of MAY, 2022.

Enacted and approved this 10th day of May, 2022, in Holly Hill

3.

Request for Lien Reduction - 608 Cedar Avenue

(Requested by Joseph Forte, City Manager)
Mayor Via opened public participation. No one spoke.

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RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Roy Johnson, District 4 - Commissioner
SECONDER:	John Penny, District 1 - Commissioner
AYES:	Via, Penny, Currie, Danio, Johnson

Enacted and approved this 10th day of May, 2022, in Holly Hill

6. PUBLIC HEARINGS

1. -2022-O-3051 Ordinance

FIRST READING - an Ordinance of the City of Holly Hill, Florida, Approving the Eighth Amendment to Marina Grande Residential Based Mixed Use Planned Unit Development (MPUD) Development Agreement to Add Permitted Uses; Providing for Conflicting Ordinances; Providing for Severability; and Providing an Effective Date.

(Requested by Brian Walker, Board of Planning and Appeals)
Mayor Via opened public participation.

Jim Cameron, Holly Hill and the applicant, Mike Panaggio.

Mayor Via closed public participation.

RESULT:	**APPROVED AT 1ST READING [UNANIMOUS]**	**Next: 5/24/2022 6:00 PM**
MOVER:	Penny Currie, District 2 - Commissioner	
SECONDER:	John Penny, District 1 - Commissioner	
AYES:	Via, Penny, Currie, Danio, Johnson	

7. COMMUNICATIONS

A. City Manager & Staff Comments
None.

B. City Attorney Comments
None.

C. City Commission Comments
Commissioner Currie reiterated the same comments regarding our Holly Hill Police Officers and the comments that Mayor Via made about the social media page; the false information that was being said.

Commissioner Johnson informed everyone that the construction has begun on the inside of the Volusia Sports Center; everything is moving along.

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Commissioner Penny asked Mayor Via if it would be okay for him to sign a proclamation for the Gadskin Family Reunion in July and Mayor Via was fine with that.

D. Mayor's Comments

Mayor Via mentioned that he was invited to a prayer gathering at Eclectic Church this Thursday evening at 6:00 PM, where Pastor Steve Deal will be praying for the community at-large. Mayor Via stressed his concerns and annoyance about the false information he was reading on the Holly Hill Neighborhood Crime social media page as it pertains to speeding and comments about the police officers.

8. ADJOURNMENT

The meeting adjourned at approximately 7:05 PM.

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CITY OF HOLLY HILL, FLORIDA

CITY COMMISSION

MINUTES ● MAY 10, 2022

Large Conference Room **Work Session** **5:00 PM**

CITY HALL
1065 RIDGEWOOD AVENUE
HOLLY HILL, FL 32117

City Clerk's office: (386) 248-9441 - Fax: (386) 248-9448

1. CALL TO ORDER

a. Roll Call

Attendee Name	Title	Status	Arrived
Chris Via	Mayor	Present	
John Penny	District 1 - Commissioner	Present	
Penny Currie	District 2 - Commissioner	Present	
John C. Danio	District 3 - Commissioner	Present	
Roy Johnson	District 4 - Commissioner	Present	

2. CONTAINERS ORDINANCE

1.

Containers Ordinance - Discussion

(Requested by Valerie Manning, City Clerk)
Brian Walker, City Planner went over his staff report with the Mayor and Commissioners. Taken directly from the staff report, the following was read for the audience by Mr. Walker.
Currently, the City's Land Development Code does not specifically allow or disallow the use of shipping containers, in the style of those commonly seen on freight trains and ships and trucks transporting goods, for storage in any zoning district within the City. However, the City has received several requests to place shipping containers on parcels in both the business and residential zoning districts for permanent storage use. And while there have been few complaints about such containers, the request to use them for permanent storage has been increasing. It is staff's opinion that the use of shipping containers is a temporary one, in which they are delivered to a site, loaded with goods, and placed on a transport vehicle such as a ship, train or truck, to be transported to another facility. They are not meant to be a permanent storage fixture on sites. Steel shipping containers are built well for their purpose, which is the temporary transport of goods on a ship, rail or truck, and because they are industrial in nature and designed for transport, they are not visually appealing when left on a site for permanent storage use. Such containers come in all shapes, sizes and conditions, and if left unregulated, staff feels they have the potential to severely detract from the visually appealing commercial and residential areas that the City is trying to realize. Because the City's code does not

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provide any specific guidance on shipping containers, or even define what a shipping container is, staff has worked to develop an ordinance that defines the term, and addresses where they can and cannot be placed within the City. In developing the ordinance, staff reached out to other jurisdictions within Volusia County to get an idea of how shipping containers are treated in those areas. In general, such containers are permitted as permanent structures only in industrial settings. The proposed ordinance defines a "Shipping Container" aka "Intermodal Container" as a reusable container that is originally, specifically or formerly designed for or used in the packing, shipping, movement, or transportation of freight, articles, goods, or commodities and is also designed for or capable of being mounted or moved on a rail car, truck trailer or loaded on a ship for intermodal freight transport. Such a container is not a storage shed.

EXHIBIT A - Provides an example of the type of shipping containers this ordinance addresses.





The proposed ordinance restricts the use of shipping containers for permanent storage use, to the CC-1 - Commercial Corridor District, I-1 - Wholesale-Light Industrial and I-2 - Heavy Industrial, zoning districts. "Permanent use" means more than 14 days within a calendar year, except that such containers may be placed on active construction sites for more than 14 days within a calendar year and not be considered permanent storage. The use of shipping containers for permanent storage use would be prohibited in all other straight zoning districts. They would also be prohibited on any properties within the CRA that touch Ridgewood Avenue and/or LPGA Avenue. The CC-1 - Commercial Corridor District, I-1 - Wholesale-Light Industrial, and I-2 - Heavy Industrial, zoning districts were selected as being the most appropriate zoning districts to permit shipping containers, because the purpose and intent of those districts is to provide for those storage and commercial uses which are considered intensive in relation to the other districts. The proposed ordinance also requires that such containers be placed behind the front plane of a principal structure and shall not be located within the principal rear and side yard setbacks of the CC-1 (Commercial Corridor), I-1 (Wholesale-Light Industrial) and I-2 (Heavy Industrial) zoning districts, except that such containers that have a footprint of less than 250 square feet be allowed to be placed within 8 feet of the rear property line. If the container is at all visible from public rights-of-way, it must be placed in an eight-foot high, masonry block enclosure or wall with a stucco finish painted to match the color of the principal structure. This enclosure is similar to what is required for a commercial dumpster which is essentially a metal container. Shipping containers must also sit on a concrete slab and be anchored to ensure level placement and prevent weeds from growing in and around them. To protect the life, health and safety of the public, the proposed shipping containers shall not be permitted as living quarters or office workspace. No plumbing, electric or air conditioning shall be permitted inside of a shipping container to ensure the unit will not be occupied. The material to be stored in shipping containers is subject to review by the Chief Building Official, and or Fire Chief of Fire Marshal, to ensure the materials stored within them are not hazardous. These regulations not apply to

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City approved planned developments wherein such containers are used to construct unique offices, homes, restaurants, etc., that meet all requirements of the Florida Building Code, as well as all other applicable city, state and federal regulations. An example of such a development is attached titled, Container Development Examples. Shipping containers that have received a permit on any property prior to the adoption date of the ordinance may remain on the property, but can be moved only to make them less visible from any rights of way. Shipping containers not associated with an active construction site, and that do not have a permit, but that have been on a property continuously for at least one year prior to the adoption date of this Ordinance, can remain on the property, but must receive a permit. The City shall have the right to require that the container be moved to a less visible area, and meet setback or screening requirements. The presence of the container on the property must be able to be verified and providing such proof shall be the responsibility of the property owner. All other non-permitted shipping containers in the City must be removed from the property. Shipping containers must receive a permit to be placed on a property for any reason. Mr. Walker stated that staff recommends adoption of an Ordinance amending Chapter 78 - General Provisions, Section 78-14 - Definitions, to add definitions, and amend Chapter 114 - Zoning, Article III -Supplementary District Regulations, Division 4 - Buildings and Structures, to add a new section titled Shipping Containers, and renumber existing sections as needed, and add definitions to section 114-746 - Specific terms defined, of the Land Development Regulations.

CONTAINER DEVELOPMENT EXAMPLES







There was some discussion amongst the Mayor, Commissioners, Mr. Forte and staff at this time. Mr. Forte suggested to the Commission that they take time to look over the proposed ordinance that is in their packet and send him any ideas or information that they may want to see changed or updated within the ordinance proposed and to have their comments to him no later than Friday, May 13, 2022 by the end of the day and he will get with staff with those suggestions and bring forth an updated Ordinance if there is one.

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Mayor Via recessed the workshop to convene the regular City Commission meeting that was scheduled for 6:00 PM. There was ***consensus*** from the Commission to continue this workshop after the regular City Commission meeting.
This workshop recessed at approximately 5:57 PM.

3. UTILITY BILLING SYSTEM IMPLEMENTATION UPDATE

1. -DOC-2022-2

Utility Billing System Update

(Requested by Joseph Forte, City Manager)
Mayor Via reconvened the workshop at approximately 7:15 PM.
Stella Gurnee, Assistant City Manager to Special Projects went over the PowerPoint presentation pertaining to the Utility Billing update with the Tyler Incode Implementation. ***(For a copy of the PowerPoint presentation, you may contact the City Clerk's Office)***

RESULT:	**PRESENTATION**

Enacted and approved this 10th day of May, 2022, in Holly Hill

4. UPDATE ON CAPITAL PROJECT PROGRAM

Mr. Forte mentioned the Capital Improvements Projects with the Mayor and Commissioners. What he was hoping to do but won't do it tonight but will try to do it once a month, is give you an update on the overall Capital Improvement projects. Not just in Public Works but in other areas of the city. Ms. Lincoln had put this spreadsheet together and it's kind of a summary of everything that's going on, working with Mr. Khoury (Public Works Director) and Steve Juengst (Administration Manager for Public Works) that we can keep an eye on the projects and see what's happening, with what's in the budget. This is a good update. We'll do that at another date.

(A copy of the spreadsheet is available upon request in the City Clerk's Office).

Mr. Forte mentioned that the Commission agreed to go ahead and hire ZHA as a consultant to serve as a owners rep and project manager on half a dozen or more projects and we got a proposal from them and they initially tweaked it and it came down and staff met with them last week and they gave us a rundown of what they thought their responsibilities would be for those projects. At the end of the day, even after we removed three projects from the list, the cost is still around $600,000 for their services. Mr. Forte stated that he met with one of their reps today and I trust them. I've worked with them while I was in Seminole County and I trust Andy Brooks who is the Principle for ZHA and they're even working on trying to figure out what's the value of what we're paying for? Even when we met internally, there's some things that the city can do that we don't really need them for. So, my biggest concern going

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into this was that the staff - Antoine, Steve and Shawn…we just don't have time to carry out some of these projects. Well, a new issue has come up. Last week, a flurry of emails came out from the other City Managers because their projects have been increasing double digits. Doubling. And in one case a project tripled. The cost of projects is just sky-rocketing. We're seeing it locally even with Pictona; they have bi-weekly meetings over there, is met with nothing but price increases. What he thinks he would like to recommend is that we unwind this clock a little bit and we either put ZHA on hold or we eliminate moving any tasks to them and we look to do things in-house again, potentially, even hiring a Projects Manager to work under Antoine and Steve to help carry these out. I think we need to reprioritize these things because one of the things he thinks is happening is the money that the city has allocated for each of these projects, I no longer think it is enough. I think we're going to be under budget on a lot of it. The biggest priority that I think that we have right now is the trifecta is building the Public Works Building, building the new Fire Station, and renovating the old Fire Station. They kind of work hand-in-hand together to get that done and I think that would be one of the priorities, as well as, some of the waterline replacements. Today we had a bid opening for the Public Works building and although there were over thirty (30) plans picked up, we didn't get one bid back. Remember, we had this problem several years ago where we weren't getting bids back and that's what happened today. I think that it's primarily because of the amount of money that we had budgeted that these contractors don't think is enough. Another question came up as to whether or not the concrete slab is going to be sufficient for the building to go on it but that has a solution to it. We can figure that out and get an architect and engineer to determine that. But when you put a bid out and thirty (30) companies…now, some of those companies have no business picking up a bid but still, we didn't get a single bid back on that. So, that's kind of concerning to him. A lot of cities are pushing off their Capital Projects now, waiting for the market to settle down a little bit. It really kind of upsets me because this is where we have the money to do the projects and now the economy is making it difficult so that we almost can't. So, without any objection from any of the Commission members, I think I want to at least ask ZHA to take a step back, let us reorganize what our priorities are, let us look internally as to what we can or can't do and whether or not it would be more cost effective to bring someone on to help as a Project Manager. We are bringing on the Purchasing Agent next week, which he thinks will also be helpful in this whole process. That's kind of what his recommendation is. He wasn't sure if Antoine had anything he wanted to add to that. Do you agree or disagree?

Antoine Khoury, Public Works Director stated he agrees 100%.

Mayor Via stated and I don't think you're going to get an objection here. Is there anyone from the Commission that objects? There was no one.

Mayor Via stated he thinks that they may need to look to take it inward because you look at $600,000 for that when we could maybe pay ten times less and have someone 40 hours a week.

Mr. Forte stated his main focus was not to over burden the staff. The current staff has a lot on their plate. When you look at this list of projects that's currently going on, there's a lot on the plate and I don't want to add anymore to the plate but if we can rearrange it and maybe get some help in there, I think it could still be successful.

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Mayor Via stated we look forward to hearing the report on how we will work that one out.

5. EVENT COORDINATOR DISCUSSION

Mr. Forte stated as Pictona 2 continues to move on, they have hired a Tournament Coordinator who is going to schedule out tournaments and they're already scheduling. They started in October this year and they're booking into 2023 and going beyond. So, they have that part handled. Then the city has our part of the equation where we have to start to fill that venue up with other events and performances and activities. Mr. Forte mentioned that he met with a couple of promoters; Al Smith with Rick Hamilton. Rick Hamilton used to run the Ocean Center and he is very enthusiastic about it. He was out of State, he now lives in Margaretville and he actually, reached out to me when all this was happening several months ago. I met with him several times and he's offered me a proposal to do this. He would like to negotiate this proposal with him and hire him as a consultant to get these things started. His initial fee would be $2,000 a month for the next five months so $10,000 and then after that in November it will be $3,000 a month and he would put in about 20 hours a week. The things he wants to bring here, we don't have a Rec Department to do it. Other things we have to worry about is like security, police, emergency services, first aid, ushers, etc., he has the ability and expertise to do this and its over my head to do it. This will be a CRA funded contractual position. I think if we don't start it now, by the time we get ready in the winter where we should be filling in, it's going to be too late. Another key point is the Ormond Performing Arts Center is closing down for renovations, that's an opportunity for a grab that we can start to get some performances that would typically take place there and he thinks their seating is less than six or seven hundred. We can grab some of those performances and maybe introduce them to our venue. Mr. Forte stated he would like to get their consensus to go ahead and work with Rick Hamilton. I think that Mr. Hamilton will be able to bring us in the back door and all of a sudden we would have a successful venue without people realizing we did it.

Commissioner Danio asked how long of a work time…sign him up for?

Mr. Forte stated Mr. Hamilton said he only wants to do this for three or four years. He's an older gentleman. This would initially be from June to October for the $2,000 a month and then from October on…there's a 30-day termination clause for either party. He's going to have Attorney Simpson review it because there's also language in here about reimbursable expenses and we want to be sure we define exactly what that is. Not that I'm paying $2,000 a month and $10,000 for reimbursable things so we want to be sure we know what we're talking about. He did speak to Darq over at the Chamber of Commerce and she's an events coordinator. She's more of a "day of" coordinator for like weddings, things like that and he thinks that at some point we can probably engage her to do certain things over there but I think we need this, Mr. Hamilton's expertise. He thinks this is the right direction to go in.

There was *consensus* from the Mayor and Commissioners to move forward with Rick Hamilton.

6. ADJOURNMENT

The workshop adjourned at approximately 7:45 PM.

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HOLLY HILL
FLORIDA

STAFF REPORT
CITY OF HOLLY HILL, FLORIDA

City Commission
Resolution

MEETING DATE: **May 24, 2022**
FROM: **Joseph Forte**
SUBJECT: **A Resolution of the City Commission of the City of Holly Hill, Florida, Authorizing the City Manager to Sign a Proposal Agreement Between the City of Holly Hill and Rick Hamilton; Providing for Severability; and Providing for an Effective Date.**
NUMBER: **2022-R-35**
APPLICANT:
PLANNER:

DISCUSSION:

As part of the development of Pictona, Phase 2 a championship court is being constructed capable of seating in excess of 1,000 people. Pictona and its staff are responsible for scheduling and operating pickleball tournaments and the City of Holly Hill and its staff are responsible for scheduling other entertainment and programs. The city does not have a recreation department or any personnel that has a background in promotions and entertainment programs. In order to begin preparing for future entertainment programs the city manager would like to engage, by contract, a promoter with experience to handle all such entertainment activities.

After speaking with a few promoters, the City Manager would like to enter into an agreement with Mr. Rick Hamilton. Mr. Hamilton has made a career of being an entertainment promoter and has a proven record from his past experience working for the Ocean Center many years ago.

Attached is a proposal from Mr. Hamilton that has been reviewed by the City Attorney and negotiated with Mr. Hamilton.

The City Manager is entering into this agreement under the city's purchasing policy.

2.31 NON-COMPETITIVE NEGOTIATION

Non-competitive negotiation may be used when the award of a contract is not feasible under any other formal procedure. Circumstances under which a contract may be awarded by noncompetitive negotiation are limited to the following: Consultant Services, other than those regulated by § 287.055, Fla. Stat.;

FISCAL ANALYSIS:

For the first 5 months of the agreement until the end of the 2021-22 fiscal year the contractual cost is a flat rate of $2,000 per month plus agreed upon reimbursable expenses. The next fiscal year, 2022-23 the monthly rate would increase to $3,000 per month for an annual cost of $36,000

plus agreed upon reimbursable expenses.

Additionally, any sponsorship Mr. Hamilton secures would entitle him to 10% of the contract value. This cost would be paid by the sponsor.

Additional expenses will be incurred to fund the actual performances. With City Commission and CRA approval.

STAFF RECOMMENDATION:

Staff recommends the City Commission approve the proposal and authorize the City Manager to execute the proposal as an agreement.

COMMISSION GOAL:

Goal #3: Implement the CRA master plan with a focus on the best utilization of vacant properties and blighted properties in the city. Attention should also focus on infrastructure improvements within the district and strategies to encourage private investment and business retention.

MOTION:

TO APPROVE THE PROPOSAL AND AUTHORIZE THE CITY MANAGER TO SIGN THE PROPOSAL AN AGREEMENT.

ATTACHMENTS:

- Updated - Proposal Events Coordinator Agreement - May 19, 2022 (PDF)

Resolution No. 2022-35

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, AUTHORIZING THE CITY MANAGER TO SIGN A PROPOSAL AGREEMENT BETWEEN THE CITY OF HOLLY HILL AND RICK HAMILTON; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, AUTHORIZING THE CITY MANAGER TO SIGN A PROPOSAL AGREEMENT BETWEEN THE CITY OF HOLLY HILL AND RICK HAMILTON; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City of Holly Hill desires to enter into a business relationship with Mr. Rick Hamilton in order to provide entertainment programs and events at the Championship Court at Pictona; and

WHEREAS, the Mr. Hamilton has a long history of serving as an event and entertainment promoter for felicities such as the Ocean Center.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA:

SECTION 1. That the City Manager is hereby authorized to sign the proposal agreement, attached.

SECTION 2. That the initial term of this agreement shall commence on June 1, 2022 and end on October 31, 2022. The implementation term shall commence on November 1, 2022 and terminate pm October 31, 2023. The proposal agreement may renew for up to three (3) one year periods.

SECTION 3. SEVERABILITY. If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Resolution.

SECTION 4. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

APPROVED AND AUTHENTICATED on this 24th day of MAY, 2022.

RJH

Rick J Hamilton | 524 Barefoot Life Lane | Daytona Beach, FL 32124 | 813.285.1358 | rickjhamilton@gmail.com

Proposal for Pictona Event Booking and Management

Rick Hamilton, Contractor, is providing this information to the City of Holly Hill, City, to provide booking of the event space for all events at Pictona exclusive of any Pickle Ball events and activities and exclusive of the Holly Hill Arts Festival.

SCOPE OF WORK

Contractor proposes to provide the following services and administrative oversight to implement and manage:

- Marketing and Public Relations to establish Pictona as a new venue in the marketplace
- Establishment of social media outlets to create presence in the market segment
- Development and management of website content for the new venue for public events
- Establishment of public relations media contacts and network to provide announcement and schedule of events
- Development of a primary events calendar and establishment of network for access
- Development and implementation of a events booking mechanism
- Development and implementation of an events license for the venue
- Development and implementation of an event settlement system to provide accountability
- Development and implementation of an event services scheduling system to include
    - Security
    - Police
    - Emergency Services
    - First Aid
    - Ushers, stagehands, and event staff
    - Ticket production, sales, and management
    - Food and Beverage services
    - Production services
    - Janitorial services before, during, and after each event
    - Site management
- Event management and production coordination
- Event settlement procedure and coordination with the City of Holly Hill
- Event reporting system to the City of Holly Hill
- Sponsorship development
- Membership for the City of Holly Hill in Florida Venue Managers Association
- Coordination of event activities with other community entities

PROPOSED COMPENSATION

INITIAL COMMITTMENT

Contractor will provide development and set up of systems, forms, documents, and coordination with the City of Holly Hill to insure compatibility and compliance with the City's administrative officials and compliance with all local, state, and federal rules and regulations.

Public relations and marketing to begin development of awareness for potential future users of the venue with graphics of site, capacities, and resources. This activity is 5 months starting June 1 through October 31, 2022. Cost is $2,000/month for a total of $10,000.

EVENT TYPES

Attachment: Updated - Proposal Events Coordinator Agreement - May 19, 2022 (2022-R-35 : Promoter and Events Coordinator Agreement)

The following event types will be considered for the venue:

- Concerts
  - Country
  - Pop
  - Tribute
  - Rock and Soul
  - Jazz
  - Christian
  - Gospel
- Theatrical productions
- Pageants
- Comedians
- Social events and homecomings
- Vehicle events and competitions
- Trade shows
- Meetings
- Promotions
- Arts and crafts
- Festivals
- Competitive arts
  - Cheerleading
  - Dance
  - Drill teams
  - Sporting events

Contractor will work and coordinate with City administration for development of hybrid events of specific interest or niche interest in the City of Holly Hill for example, the National Holly Association, Holly merchandise show, and others.

SPONSORSHIPS

Contractor will seek to develop title sponsorships for events and for the venue with coordination and approval of the City. Contractor shall receive for each successful contract execution compensation equal to 10% of the total contract value. This compensation shall only be paid when the City actually receives payment from the sponsor. Total Contract Value shall be only the dollar contributions from the sponsor and not any value attributable to contribution of any goods or services. Furthermore, compensation for sponsorship revenue shall only be paid if the sponsorship revenue is received while this Agreement is in full force and effect. Compensation shall not be paid on sponsorship revenue received after the termination of this Agreement, even if the sponsorship agreement is a mutli-year agreement that commenced while the Agreement was in effect.

IMPLEMENTATION

All activities and documents in the initial phase approved by the City of Holly Hill administrative officials shall begin on November 1, 2022, on an annual basis at a proposed cost of $3,000 per month for a total annual cost to the City of $36,000 for Contractor services. For the duration of this agreement the Contractor will provide an average of 20-man hours per week exclusively to the City. Work shall be conducted in City provided office space, remotely, or offsite with promoters and other contractors. Contractor will provide additional man hours as needed for successful completion of each event and will

Attachment: Updated - Proposal Events Coordinator Agreement - May 19, 2022 (2022-R-35 : Promoter and Events Coordinator Agreement)

maintain onsite presence at each event as needed. This proposal agreement may renew for up to Three (3) additional one (1) year periods upon written notice from the City to the Contractor of intent to renew prior to the expiration date.

ADDITIONAL CONSIDERATIONS

Cost and expenses for additional items not covered in this proposal shall be presented to City for consideration and approval. For example: FVMA membership, marketing and promotional materials, professional travel and meetings, travel for marketing of venue for additional sales opportunities, graphics and/or printing, website development and management, publishing, electronic media.

TERMINATION

The Contractor and the City have the right to terminate this agreement at any time with 30 days notification by written or electronic notification with acknowledgement.

INDEPENDENT CONTRACTOR RELATIONSHIP

The City and Contractor intend to create an independent contractor relationship. The City shall not withhold any taxes nor pay any payroll taxes on behalf of the Contractor. Contractor shall not be entitled to any employee benefits from the City, including vacation time, health insurance and retirement. Contractor shall not have the authority to bind the City to any obligation and the Contractor shall not represent to the public that he has such authority.

Rick Hamilton
Promoter

_____ _____

Joseph Forte
City manager

_____ _____

Attachment: Updated - Proposal Events Coordinator Agreement - May 19, 2022 (2022-R-35 : Promoter and Events Coordinator Agreement)

HOLLY HILL
FLORIDA

STAFF REPORT
CITY OF HOLLY HILL, FLORIDA

City Commission
Resolution

MEETING DATE: **May 24, 2022**
FROM: **Antoine Khoury**
SUBJECT: **A Resolution of the City Commission of the City of Holly Hill, Florida, Approving the First One (1) Year Extension of the RFQ 18-PW-03 Agreement with Sea Diversified, Inc., and Approving a Proposal of $56,340.00 with Sea Diversified, Inc., for the Provision of Consruction Administrative Support Services, Inspections and Monitoring for the Sunrise Park North – Southern Bulkhead Replacement Project, and Authorizing the City Manager to Execute the Same; Providing for Severability; and Providing for an Effective Date.**
NUMBER: **2022-R-36**
APPLICANT:
PLANNER:

DISCUSSION:

On March 26, 2019 the City Commission awarded a professional services agreement to Sea Diversified, Inc. to provide design services for the Sunrise Park Piers through RFQ 18-PW-03. In order to maintain a continuity of design standards and approaches, this agreement was extended to provide for the design for the Sunrise Park bulkheads through resolution RFP 19-BG-07. In addition to design, Sea Diversified provided construction administrative support and inspections for both projects. The term of this agreement is for three (3) years with two (2) one-year extensions as exercised at the discretion of the City.

The City Commission recently approved a project to replace a section of the southern bulkhead at Sunrise Park North. The design for the southern bulkhead is complete, and the solicitation for construction is currently advertised. This project will require construction management, inspections and monitoring in order to ensure that all construction is done according to the specifications of the design and all requirements of permitting agencies.

In order to further maintain continuity of approaches, staff recommend that the professional services agreement with Sea Diversified, Inc. be granted the first of the optional one (1) year extensions in order to provide construction administrative support services, inspections and monitoring for the Sunrise Park North Southern Bulkhead project.

The professional consultant services agreement RFQ #18-PW-03 in included under ‘Exhibit A’.

FISCAL ANALYSIS:

Sea Diversified, Inc., has provided a proposal for construction administrative support services inspection and monitoring at a cost of $56,340.00 based on an estimated construction schedule of 210 calendar days. There is $700,000 budgeted into GL account 301-8110-580.63-00 for this project, which is anticipated to fund construction administrative services as well as construction.

The proposal from Sea Diversified, Inc. to provide construction administrative support services, inspection and monitoring is included under 'Exhibit B'.

STAFF RECOMMENDATION:

Approve the first of the one (1) year extensions with Sea Diversified, Inc., and approve a proposal from Sea Diversified, Inc. to provide construction administrative support services, inspection and monitoring for the Sunrise Park North - Southern Bulkhead replacement project.

COMMISSION GOAL:

Goal #1: Develop and maintain a sound and sustainable financial plan for the city that establishes sufficient reserves for all funds, ensures (whenever possible) that user fees pay for services rendered, provides a realistic capital improvement program, and encourages public/private sector partnerships and intergovernmental partnerships.

Goal #2: Enhance City aesthetics through beautification and maintenance of city property and public rights of way, consistent enforcement of zoning and property maintenance codes, and development of reasonable design standards and a corresponding process which is applicable to all new developments and business improvements in the city.

MOTION:

APPROVE THE FIRST OF THE ONE (1) YEAR EXTENSIONS WITH SEA DIVERSIFIED, INC., AND APPROVE A PROPOSAL FROM SEA DIVERSIFIED, INC., IN THE AMOUNT OF $56,340.00 TO PROVIDE CONSTRUCTION ADMINISTRATIVE SUPPORT SERVICES, INSPECTION AND MONITORING FOR THE SUNRISE PARK NORTH - SOUTHERN BULKHEAD REPLACEMENT PROJECT.

ATTACHMENTS:

- Exhibit A - RFQ 18-PW-03 Professional Services Agreement (PDF)
- Exhibit B - CEI Proposal Sea Diversified (PDF)

Resolution No. 2022-36

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, APPROVING THE FIRST ONE (1) YEAR EXTENSION OF THE RFQ 18-PW-03 AGREEMENT WITH SEA DIVERSIFIED, INC., AND APPROVING A PROPOSAL OF $56,340.00 WITH SEA DIVERSIFIED, INC., FOR THE PROVISION OF CONSRUCTION ADMINISTRATIVE SUPPORT SERVICES, INSPECTIONS AND MONITORING FOR THE SUNRISE PARK NORTH – SOUTHERN BULKHEAD REPLACEMENT PROJECT, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, APPROVING THE FIRST ONE (1) YEAR EXTENSION OF THE RFQ 18-PW-03 AGREEMENT WITH SEA DIVERSIFIED, INC., AND APPROVING A PROPOSAL OF $56,340.00 WITH SEA DIVERSIFIED, INC., FOR THE PROVISION OF CONSTRUCTION ADMINISTRATIVE SUPPORT SERVICES, INSPECTIONS AND MONITORING FOR THE SUNRISE PARK NORTH - SOUTHERN BULKHEAD REPLACEMENT PROJECT, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME; AND PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the design and construction administrative support services for the Sunrise Park North - Southern Bulkhead project was provided by Sea Diversified, Inc; and

WHEREAS, the City wishes to maintain a continuity of design standards and approaches for the construction administrative support services for the Sunrise Park North - Southern Bulkhead Replacement project and

WHEREAS, Sea Diversified, Inc., has an existing agreement with the City which allows for two (2) additional one (1) year extensions; and

WHEREAS, Construction administrative support services, inspections and monitoring are desired during the construction phase of the Sunrise Park North - Southern Bulkhead Replacement project in order to ensure that construction is done according to specifications of the design and all requirements of permitting agencies.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA:

SECTION 1. That the City Commission of the City of Holly Hill approves the first one (1) year extension of RFQ 18-PW-03 with Sea Diversified, Inc.

SECTION 2. That the City Commission approve a proposal in the amount of $56,340.00 with Sea Diversified, Inc., for the provision of construction administrative support services, inspections and monitoring for the Sunrise Park North - Southern Bulkhead project and authorize the City Manager to execute the same.

SECTION 3. SEVERABILITY. If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Resolution.

SECTION 4. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

APPROVED AND AUTHENTICATED on this 24th day of MAY, 2022.

PROFESSIONAL CONSULTANT SERVICES AGREEMENT
Professional Design Services for Sunrise Piers
Request for Qualification (RFQ) #18-PW-03

THIS AGREEMENT is made and entered into this 26th day of ~~July~~ March, ~~2018~~ 2019, by and between Sea Diversified, Inc., duly authorized to conduct business in the State of Florida and whose address is 1900 S. Harbor City Blvd, #110, Melbourne, FL 32901 hereinafter, called "CONSULTANT" and the **CITY OF HOLLY HILL**, a political subdivision of the State of Florida, whose address is 1065 Ridgewood Ave, Holly Hill, FL 32117, hereinafter called "CITY".

SECTION 1. AGREEMENT. The terms of this Agreement, together with the incorporation of the terms and conditions of the Request for Qualifications (RFQ #18-PW-03), and any exhibits, schedules and attachments hereto, and any and all amendments relating to same, and any and all submittals from CONSULTANT, constitute the entire Agreement between CITY and CONSULTANT. This Agreement is the final, complete and exclusive expression of the terms and conditions of the parties' Agreement. Any and all prior agreements, representations, negotiations, and understandings made by the parties, oral or written, expressed or implied, are hereby superseded and merged herein.

SECTION 2. TERM OF AGREEMENT. The term of this Agreement shall be for three (3) years from the date of award with two (2) one year extension options which may be exercised at the sole discretion of the City.

SECTION 3. COMPENSATION. For Services rendered, the CITY shall pay the CONSULTANT a lump-sum fee, including or excluding reimbursable expenses as mutually agreed upon. Unless otherwise agreed in a Scope of Services, the CONSULTANT will invoice the City monthly based upon the CONSULTANT's estimate of the portion of the total Services actually completed at the time of billing.

SECTION 4. REIMBURSABLE EXPENSES. "Reimbursable Expenses" means the actual, necessary and reasonable expenses incurred directly or indirectly in connection with the Project for: transportation and subsistence incidental thereto for travel; toll telephone calls and facsimiles; reproduction of reports, drawings and specifications, and similar Project-related items; as provided in the City's Purchasing Policy.

SECTION 5. NOTICES. Whenever either party desires to give notice unto the other, it must be given by written notice, sent by registered or certified United States mail, return receipts requested, addressed to the party for whom it is intended at the place last specified. The place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this Section. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

For City:
Valerie Manning, City Clerk
City of Holly Hill
1065 Ridgewood Ave.
Holly Hill, FL 32117
(386)248-9441

For Contractor:
William T Sadler, Jr, PE, PSM - President (Name, Title)
Sea Diversified, Inc. (Company)
1900 S. Harbor City Blvd, Suite 110 (Address)
Melbourne, Florida, 32901 (City, State, Zip)
(321) 984-7268 (Phone)

Attachment: RFQ 18-PW-03 Sea Diversified (2227 : RFQ 18-PW-03 – Professional Design Sunrise Pier)
Attachment: Exhibit A - RFQ 18-PW-03 Professional Services Agreement (2022-R-36 : CEI: Sunrise Park North-Southern Bulkhead Replacement)

SECTION 6. RIGHTS AT LAW RETAINED. The rights and remedies of CITY, provided for under this Agreement, are in addition and supplemental to any other rights and remedies provided by law.

SECTION 7. CONTROLLING LAW, VENUE, ATTORNEY'S FEES. This Agreement is to be governed, construed, and interpreted by, through and under the laws of Florida. Venue for any litigation between the parties to this Agreement shall be in the County of Volusia, Florida and any trial shall be non-jury. The prevailing party in any litigation arising from or related to this Agreement shall be reimbursed reasonable attorney fees and costs, including all fees and costs of an appeal.

SECTION 8. MODFICATIONS TO AGREEMENT. This Agreement and any exhibits, amendments and schedules may only be amended, supplemented, modified or canceled by a written instrument duly executed by the parties hereto of equal dignity herewith.

SECTION 9. SEVERABILITY. If, during the term of this Agreement, it is found that a specific clause or condition of this Agreement is illegal under federal or state law, the remainder of the Agreement not affected by such a ruling shall remain in force and effect.

SECTION 10. WAIVER OF JURY TRIAL. THE CITY AND CONSULTANT HAVE SPECIFICALLY WAIVED THE RIGHT TO A JURY TRIAL CONCERNNG ANY DISPUTES WHICH MAY ARISE CONCERNING THIS AGREEMENT.

SECTION 11. NON-WAIVER. No indulgence, waiver, election or non-election by CITY under this Agreement shall affect CONSULTANT's duties and obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the date written above for execution by CITY.

WITNESSES:

Valerie Manning

CITY OF HOLLY HILL

Joseph Forte, City Manager

Dated: 5-12-2021

WITNESSES:

FIRMS

By:

WILLIAM T SAUCER JR, PE, BCM PRESIDENT

Dated: SEPTEMBER 10, 2018

Attachments: A. RFQ #18-PW-03
B. Firm Response to RFQ

Approved by the City Commission of the City of Holly Hill at a meeting held on this 26th day of March, ~~2018~~ 2019 under Agenda Item No. 7(1).

Attachment: RFQ 18-PW-03 Sea Diversified (2227 : RFQ 18-PW-03 – Professional Design Sunrise Pier)
Attachment: Exhibit A - RFQ 18-PW-03 Professional Services Agreement (2022-R-36 : CEI: Sunrise Park North-Southern Bulkhead Replacement)

SEA Diversified, Inc.
160 Congress Park Drive, Suite 114
Delray Beach, Florida 33445
Phone: 561-243-4920
www.seadiversified.com

April 4, 2022

Mr. Steven Juengst
Facilities Supervisor
City of Holly Hill
453 LPGA Boulevard
Holly Hill, Florida 32117-2898

Sent via electronic mail on 04/04/22
sjuengst@hollyhill.org

(O) 386-9463

Re: Proposal / Agreement for Professional Services - Supplement
Construction Administration Services
Sunrise Park – South Bulkhead Reconstruction
1135 Riverside Drive, Holly Hill
Sea Diversified P.N. 22-2978

Dear Mr. Juengst:

The following is a proposal for professional services pertaining to the reconstruction of the Sunrise Park South Bulkhead. The project is located at 1135 Riverside Drive in Holly Hill, Florida. The scope of work pursuant to this proposal shall include construction administration services associated with the proposed bulkhead construction. A summary of services is as follows:

Construction Administrative (CA) Support Services Inspection & Monitoring

- Assistance with project bidding including attendance to a pre-bid meeting
- Assistance with contractor selection and award of contract
- Attendance to a pre-construction meeting
- Review of contractor required submittals
- Verification of construction layout
- Observations of construction
    - Observations and coordination of Contractor mobilization and project setup
    - Observations of necessary demolition
    - Observations and assistance with project damage controls
    - Observations of sheetpile driving
    - Observations of batter pile driving
    - Observations of concrete cap construction
    - Observations of timber rail construction
    - Preparation of field observation reports
- Coordinate with City staff regarding projected work schedules to ensure least disruption to Park visitors and adjacent residents.
- Monitor construction activities as related to the contractor's means and methods of maintaining proper control to avoid damage to private and public property.
- Monitor construction activities to ensure compliance with state and federal environmental permit conditions.
- Periodic site visits by the SDI Project Manager and Engineer, as necessary to observe critical or unforeseen conditions that may be encountered during construction.

Attachment: Exhibit B - CEI Proposal Sea Diversified (2022-R-36 : CEI: Sunrise Park North-Southern Bulkhead Replacement)

- Site visits by the Project Manager at time of substantial completion to develop a "punchlist" for the contractor to address.
- Final site visit by the Project Manager to confirm final project completion as required to certify the project as being complete.

Lump sum fee for CA services shall be $ 56,340.00 based on an estimated construction schedule of 210 calendar days (30 weeks) and the following estimated breakdown of time and efforts over this period of time:

Assistance with bidding, pre-construction meeting / review of contractor submittals
- Project Manager: (12) hrs. @ $ 165.00 / hr. = $ 1,980.00
- Professional Engineer: (16) hrs. @ $ 150.00 / hr. = $ 2,400.00

Onsite observations and reporting to the City
- Project Manager: (32) hrs. @ $ 165.00 / hr. = $ 5,280.00
- Professional Engineer: (60) hrs. @ $ 150.00 / hr. = $ 9,000.00
- Engineering Technician: (240) hrs. @ $ 120.00 / hr = $28,800.00

Review pay requests including supporting documentation
- Project Manager: (16) hrs. @ $ 165.00 / hr. = $ 2,640.00

Final project inspections, "Punchlist" preparation and project certifications
- Project Manager: (16) hrs. @ $ 165.00 / hr. = $ 2,640.00
- Professional Engineer: (24) hrs. @ $ 150.00 / hr. = $ 3,600.00

Total: $56,340.00

Should the actual construction days exceed 210 calendar days (30 weeks), SDI will provide a supplemental proposal to cover additional construction administration services. Note that the lump sum fee is inclusive of travel, lodging, meals and incidental expenses.

If you have any questions or require additional information, please do not hesitate to contact us directly. We appreciate this opportunity to provide this proposal to work with you on this project.

Sincerely,



William T. Sadler Jr., P.E., P.S.M.
President, Sea Diversified, Inc.

Attachment: Exhibit B - CEI Proposal Sea Diversified (2022-R-36 : CEI: Sunrise Park North-Southern Bulkhead Replacement)

HOLLY HILL
FLORIDA

City Commission
1065 Ridgewood Ave
Holly Hill, FL 32117

SCHEDULED

Meeting: 05/24/22 06:00 PM
Department: Police
Category: Consent Agenda
Prepared By: Lisa O'Neal
Initiator: Jeff Miller
Sponsors:
DOC ID: 3756

CONSENT AGENDA (ID # 3756)

MOU Panama City Beach PD and HollY Hll Police Department

Memorandum of Understanding (MOU) - Between PANAMA CITY BEACH POLICE DEPARTMENT AND HOLLY HILL POLICE DEPARTMENT FOR INFORMATION EXCHANGE AND USE

DISCUSSION:

The Holly Hill Police Department wishes to routinely receive the LPR extracts from Panama City Beach Police Department for the administration of criminal justice; and, both agencies have a valid Criminal Justice User Agreement and License Plate Reader Supplement on file with FDLE;

The Holly Hill Police Department agrees to abide by all applicable local, state and federal laws, rules and regulations, with regards to the use of said electronic systems. To the extent provided by the laws of Florida, the Holly Hill Police Department agrees to be responsible for the violations, negligent acts or omissions of its personnel arising out of or involving any information contained in, received from, entered into or through the receipt of the records.

This agreement will follow with the Flock Group lease agreement.

FISCAL ANALYSIS:

There is no budgetary impact to the City.

STAFF RECOMMENDATION:

Approve the Holly Hill Police Department's entry into a MOU with the Panama City Beach Department.

COMMISSION GOAL:

Goal #4: Provide proficient public health and safety services in terms of police and fire protection, water, storm water, waste water, and solid waste management and disaster preparedness with a focus on intergovernmental collaboration, private sector partnerships, and utilization of technologies and proven innovations.

MOTION:

AUTHORIZE THE CITY MANAGER TO ENTER INTO MEMORANDUM OF

UNDERSTANDING (MOU) WITH THE PANAMA CITY BEACH POLICE DEPARTMENT, FOR INFORMATION EXCHANGE AND USE.

INTERAGENCY AGREEMENT BETWEEN PANAMA CITY BEACH POLICE DEPARTMENT AND HOLLY HILL POLICE DEPARTMENT FOR INFORMATION EXCHANGE AND USE

WITNESSETH

WHEREAS, The PANAMA CITY BEACH POLICE DEPARTMENT hereafter referred to as CJA, and The HOLLY HILL POLICE DEPARTMENT, hereafter referred to as CJA2, are criminal justice agencies, formally recognized by the Federal Bureau ·of Investigations. (FBI) and the Florida Department of Law Enforcement (FDLE); and

WHEREAS, The CJA receives license plates based extract files from the Florida Department of Law Enforcement for use via a License Plate Reader (LPR), hereafter referred to as LPR extracts; and

WHEREAS, The CJA2 wishes to routinely receive the LPR extracts from CJA for the administration of criminal justice; and

WHEREAS, both agencies have a valid Criminal Justice User Agreement and License Plate Reader Supplement on file with FDLE;

NOW THEREFORE, The parties agree as follows,

1. The CJA2 shall receive the updated LPR extracts from the CJA via an existing integration between CJA and contracted LPR vendor (FLOCK) twice a day.

2. The CJA will provide the CJA2 with the LPR extracts at no cost to the CJA2.

3. The CJA2 agrees to abide by all applicable local, state, and federal laws, rules and regulations, with regards to the use of said electronic systems.

4. To the extent provided by the laws of Florida, the CJA2 agrees to be responsible for the violations, negligent acts or omissions of its personnel arising out of or involving any information contained in, received from, entered into or through the receipt of the records.

5. The CJA has an obligation to report instances of misuse to the FDLE for follow up of applicable investigation and applicable discipline.

6. Either party may terminate this agreement upon thirty (30) days written notice, except that the CJA may terminate this agreement immediately and without notice upon finding that the CJA2 has violated the terms of this agreement.

This agreement constitutes the entire agreement of the parties and may not be modified as amended without written agreement executed by both parties.
IN WITNESS HEREOF, the parties hereto have caused this agreement to be executed by the proper officers and officials.

IN WITNESS HEREOF, the parties hereto have caused this agreement to be executed by the proper officers and officials.

Attachment: INTERAGENCY AGREEMENT BETWEEN PANAMA CITY BEACH POLICE DEPARTMENT AND Holly Hill Police Department FOR

PANAMA CITY BEACH POLICE DEPARTMENT (CJA)
Agency Name

Eusebio Talamantez Jr, Chief of Police Date

WITNESS

Witness Name and Title Date

HOLLY HILL POLICE DEPARTMENT (CJA2)
Agency Name

Joseph A. Forte, City Manager Date

WITNESS

Witness Name and Title Date

Attachment: INTERAGENCY AGREEMENT BETWEEN PANAMA CITY BEACH POLICE DEPARTMENT AND Holly Hill Police Department FOR

HOLLY HILL
FLORIDA

STAFF REPORT
CITY OF HOLLY HILL, FLORIDA

City Commission
Agenda Item

MEETING DATE: **May 24, 2022**
FROM: **Joseph Forte**
SUBJECT: **Request for a Reasonable Accommodation to the Fair Housing Act**
NUMBER: **(ID # 3747)**
APPLICANT:
PLANNER:

DISCUSSION:

The City has an ordinance which prohibits horses within the city limits. A copy of the section of the city code in provided in the attachment titled Letter to Dale Gamache. In that letter, I explain the conditions for which a request for a special accommodation could be made under the fair housing act and the city's Code for making such a request.

A reasonable accommodation is defined as a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces, or to fulfill their program obligations.

The claimant must be diagnosed are handicapped or disabled.
The property owner/local government knows of the disability.
The requested accommodation is denied.
Much of the city's decision is based on the highlighted above, which is whether the accommodation is reasonable, how does the disability impact her ability to use her house and how does the accommodation alleviate this disability. No information has been submitted about how her disability prevents her from using her house.

The HUD and Fair Housing Act documents provide the requirements necessary for a reasonable accommodation to be issued. It is important to know that in order to qualify for a reasonable accommodation according HUD, a person has to be able to demonstrate the existence of a disability. A determination of a disability is found on page 10 of the HUD document in the attachments.

The person requesting the accommodation must provide information which reasonably supports that the animal does work, performs tasks, provides assistance and/or provides therapeutic emotional support with respect to the persons disability.

Reading the verbatim minutes of the BOPA meeting from May 2, 2022, in the request Mrs. Gamache made to the BOPA, she clearly states that she does not have a disability. In fact, she states that she disagrees with Dr Nipper's diagnosis that her condition is an emotional

anxiousness and did not become emotional through COVID 19 as stated in Dr. Nippers letter. Mrs. Gamache states that her condition is a physiological and one which she was born with as a preemie and has dealt with her breathing condition, which causes a natural anxiousness, her entire life. Mrs. Gamache confirmed that she is not considered to have a disability. Since this condition has existed since her birth without any accommodations or assistance, her request does not appear to meet any of the requirements.

Mrs. Gamache stated that the main reason for this request is because of financial reasons and disputes over violations between her and the stable because, according to Mrs. Gamache, they reneged on their agreement. Mrs. Gamache has had the equine for 15 years and was able to travel to Port Orange to care for the animal until recently when she suddenly determined that the 30 minute drive to Port Orange caused her to be naturally anxious. It also coincides with the timing of the financial concerns and disputes with the stable owners.

Mrs. Gamache stated that the equine is a pet and a companion. The HUD documents clearly state on Page 3 "*Assistance animals are not pets.*"

Mrs. Gamache provided two document at the BOPA from the Condo Law Firm for Consumers which references the Emotional Support Animal Letter. There are many other resources that reference a recommendation of having an ESA Letter in the State of Florida since Florida does not have an ESA registry. The ESA letter referenced is the very same information I requested in my first letter to Dale Gamache which lists a number of items to be provided to support the request for a reasonable accommodation in compliance with the Fair Housing Act. As of writing this document, Mrs. Gamache has not provided the city with any of the requested information.

Finally, there is documentation in the attachment with regard to manure and pasture management and ammonia fumes hazards involving horse facilities. Waste pro has provided the city with notice, via the attached email, that they will not pick up bags of horse manure as part of the household collection process.

Another key point that the city has been aware of but was also brought up by a resident at the BOPA meeting is F.S.S. 817.265 which deals specifically with the consequences of a person who falsifies or provides fraudulent proof of need for an emotional support animal. While this is important, I do not believe the Gamaches have provided false information because I believe the information they have provided simply does not meet the requirements. It would be different if they were making false claims which at this point I do not believe is happening. They just simply are asking for an accommodation for which they do not qualify for.

I would like to take a moment to open some of the documents, in the agenda item, which highlight the requirements for supporting a reasonable accommodation for a unique animal under the F.S.S., HUD, and Fair Housing Act which will provide you with information to be able to make an informed decision. Afterward, I will do my best to answer any questions.

FISCAL ANALYSIS:

None

STAFF RECOMMENDATION:

The requester has not met the substantial burden of demonstrating a disability-related therapeutic need to have a full size horse reside on a single family residential property amongst other single family homes. Therefore, the staff recommends denial of the request for reasonable accommodations.

COMMISSION GOAL:

N/A

MOTION:

TO BE DETERMINED BY THE CITY COMMISSION FOLLOWING THE REQUEST FROM THE APPLICANT AND STAFF PRESENTATION.

- Letter to Dale Gamache (DOCX)
- Response from Robin Gamache (PDF)
- City Code - Evaluation_of_request_for_accommodation_pursuant_to_the_Fair_Housing_Act. (DOCX)
- HUD Documents (PDF)
- Letter from Dr. Nipper (PDF)
- huddojstatement (1) (DOCX)
- BOPA April 2022 Minutes Request for Reasonable Accomodation (DOCX)
- Ammonia Fumes in Horse Stall areas (DOCX)
- manure-and-pasture-management (PDF)
- Docs submitted by Mrs. Gamache at the BOPA (PDF)
- F.S.S. 760.27 (PDF)
- Watse Pro Determination on Horse Manure Collection (PDF)

The City Code of Ordinances state:

Sec. 10-2. - Wild animals prohibited.

No person shall house, keep or maintain any wild animals within the city. Individuals who legally obtained licensing prior to the effective date of the ordinance from which this section derives are hereby grandfathered in.

(Code 1984, § 5-26; Ord. No. 2606, § 2, 2-27-01)

Wild animal shall mean any animal not ordinarily and customarily domesticated, including, but not limited to, skunks, raccoons, opossums, squirrels, foxes, wolves, alligators, crocodiles, exotic cats, bears, elephants, giraffes, zebras, monkeys, pigs, poultry, goats, cows, horses, and sheep.

(Code 1984, §§ 5-1, 5-66(c); Ord. No. 2606, § 2, 2-27-01; Ord. No. 3031, § 1, 10-13-20)

Based on the above city ordinances there is a prohibition against having a wild animal in the city. You recently brought a horse onto your residential property for the purpose of being an emotional support animal for your wife.

Typically, an emotional support animal is one that is comforting to a person and is in close proximity throughout the day and night to offer that comfort to an individual. Animals commonly kept in households consist of a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal. If the animal is one that is traditionally kept in the home for pleasure rather than for commercial purposes, then the reasonable accommodation should be granted because the requestor has provided information conforming that three is a disability related need for the animal. For purposes of the assessment, reptiles other than turtles, barnyard animals, monkeys kangaroos, and other non-domesticated animals are not considered common animals. Barnyard animal means animals including, but not limited to, **cows, horses, ducks, goats, chickens, donkeys, sheep, llamas, turkeys, pigs and alpacas**.

Unique animals according to the Fair Housing Act: If the individual is requesting to keep a unique type of animal that is not commonly kept in the household as describe above, then the requestor has the substantial burden of demonstrating a disability related therapeutic need for a specific animal or the specific type of animal. The individual is encouraged to submit documentation from a health care professional confirming the need for this animal, which includes information of the type set out in the Guidance on Documenting and Individual's Need for Assistance Animals in Housing.

Attachment: Letter to Dale Gamache (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

The lack of such documentation in many cases may be reasonable grounds for denying a requested accommodation.

According to the U.S. Department of Housing and Urban Development, examples of a patient's need for a unique animal or unique circumstance:

- The animal is individually trained to do work or perform tasks that cannot be performed by a dog.
- Information from a health care professional confirms that:
    - Allergies prevent the person from using a dog, or
    - Without the animal, the symptoms or effects of the person's disability will be significantly increased.
    - The individual seeks a reasonable accommodation to a land use and zoning law, Homeowners Association (HOA) rule or condominium or co-op rule.
    - The individual seeks to keep the animal outdoors at a house with a fenced yard where the animal can be appropriately maintained.

Recently, you brought a full-size horse onto your residential property and built an accessory structure and fence without a permit. A complaint was received by the city and you were issued a code violation for three items. Building a structure without a permit, building a fence without a permit and maintaining a wild animal on residential property within the city limits.

You met with me on Wednesday, March 16, 2022 to discuss this situation and what may be permitted with regard to the horse on your residential property. We discussed and agreed that this situation does not meet the requirements of a "service animal" covered by the America Disability Act. We then discuss the matter as being an emotional support animal for your wife due to an emotional or mental condition recognized by Dr. Neal Nipper in a letter you had.

You inquired about making a request for reasonable accommodations to the city's land use and zoning code in accordance with the Fair Housing Act. The city does have a process for requesting an accommodation under Section 82-322 – Evaluation of Request for Accommodation pursuant to the Fair Housing Act. (Attached).

Because emotional support animals are medically valid, they are protected by emotional support animal Florida law. In addition to the Fair Housing Amendments Act of 1988, Florida recently passed laws in 2020 to prevent fraud regarding emotional support animals in housing.

In order to prepare, I am recommending that you prepare and have the information in this criterion available for the hearing. Although you have a letter from Dr. Nipper with regard to your wife's condition, a licensed mental health professional is required to evaluate an diagnose your wife's condition and confirm that a horse is the only emotional support animal that can treat her condition.

Therefore, although the state of Florida does not have an ESA registration, the city is requesting compliance with the basic Florida emotional support animal letter requirements for Emotion Support Animals which includes the following:

- A licensed mental health professional needs to determine that your wife has an emotional disability.

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- Her mental disability is in the Diagnostic and Statistical Manual of Mental Disorders.
- The identified condition substantially limits her ability to participate in at least one major life activity.
- The professional has to determine that the emotional support animal (horse) would help treat the condition or ease her symptoms.
- She will need to get an emotional support animal letter which can be thought of as a prescription for an ESA.
- The letter must come from a licensed mental health professional.
- The letter must be on her therapist's official letterhead.
- The letter must include the therapist's license details, issue date, and state.

Since you intend to keep the horse on the property until such time as the BOPA and City Commission decide on your request for Reasonable Accommodations, I am providing thirty (30) days to assemble the information and provide it to me no later than Monday, April 25, 2022. If the information is provided, a hearing with the BOPA will be scheduled for May 2, 2022 where you will be asked to provided the supporting material and request the Reasonable Accommodation. Following the BOPA's decision, the City Commission will be presented the request on May 10, 2022.

Failure to have the information will result in having to remove the animal from the property immediately. This matter will be scheduled for the Special Master but will be withdrawn if your hearing with the BOPA remains as scheduled.

Please keep in mind that even if the requested information is provided, it does not mean that the City staff will support the request or that the City Commission will ultimately approve the requested accommodation.

_____

Joseph Forte

Attachment: Letter to Dale Gamache (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

US Service Animals

Emotional Support Dog Registry

Open

Get Started With Free ESA Screening Test

Emotional Support Animal Laws In Florida

According to Florida's housing laws, tenants are prohibited from being discriminated against[2] for needing an emotional support animal. Even in buildings with a prohibition against pets, tenants can live with their companion animals.

Emotional support animal Florida law establishes that an ESA is an animal that is not a pet. An ESA does not require training to work, perform tasks, provide assistance, or provide therapeutic emotional support. Unlike a trained service animal[3], which is also protected under law, an ESA is a unique medically prescribed animal.

People prescribed an ESA may have an unconventional choice, opting for a ferret, pig, horse, monkey rather than a dog or cat. The choice of ESA is up to the client in need of a companion. However, there may be challenges if an ESA poses a health or safety hazard to others if placed in a building.

So, can a landlord deny an emotional support animal Florida? Although established housing laws protect tenants' rights to live with their ESA, a landlord may require further documentation to verify claims. Before the new Florida law was passed in 2020 regarding ESAs, there were concerns about fraudulent activity[4]. In the past, clients have paid for emotional support animal registration online with certifications, IDs, and other materials. There is no need for a tenant to pay for an emotional support animal registration for housing, travel, or other accommodations.

The only proper way to confirm and legitimize an emotional support animal Florida registration is to get a letter from a licensed mental healthcare professional, such as a licensed counselor, psychologist, psychiatrist, or nurse. The medical professional writing the letter for the ESA should prove a few things to be in alliance with Florida law.

About Emotional Support Animal Florida Housing

If a prospective tenant to a property is concerned about emotional support animals in Florida condos, the new law fully protects their rights. If you are wondering, "Can a landlord deny an emotional support animal Florida?" or "What about emotional support animals in Florida condos?" review current emotional support animal Florida housing laws.

Attachment: Response from Robin Gamache (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

New Laws For ESA And Housing

Due to the prevalence of people passing off questionable animals that could be otherwise illegal, used for entertainment, as pets, or other uses than an ESA, Florida amended ESA laws. Law SB 1084 was passed July 1, 2020, and went into full effect. Anyone who is disabled or has disability-related needs that require an ESA is entitled to accommodations for their animal and housing. An ESA cannot be considered a pet to exclude a tenant or charging fees. However, if an ESA damages property, a tenant can be held liable.

If a tenant's disability is not apparent, they may be required to give supporting information to confirm their disability and legitimate need[5] for an ESA to live with them. Documentation from a government agency, ESA letters, information from a health care provider, and other forms of evidence are permissible. As an emotional support animal Florida is a therapeutic and medically prescribed animal, the law provides protections for emotional support animal Florida housing applicants.

A potential tenant cannot be required to provide certain types of information related to their disability, including medical records. A prospective tenant cannot be forced to fill out a specific form and have their request for their ESA's accommodations denied for not following particular methods of obtaining information or supplying the requested information.

Attachment: Response from Robin Gamache (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

How To Write An Emotional Support Animal Letter?

It is helpful to have a written letter to prove your right to an emotional support animal if there is a challenge to the validity of one's disability, ESA housing accommodation, or other issues. A primary care physician or licensed therapist who has treated the client at least once in-state should provide a written statement. There is usually not enough supportive evidence provided by an online registry, purchased online letter, or a self-written letter for an ESA.

A letter for an emotional support animal should include the following information.

- The ESA's date of issue, how long the ESA has been under the client's care, and expiration date if applicable.
- The name of the patient prescribed an ESA.
- The name of the licensed physician or therapist caring for the patient, their disability, and medical professional contact information.

Attachment: Response from Robin Gamache (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

An ESA letter should be written by the licensed mental healthcare professional or physician who prescribed the ESA and provides client treatment. An ESA letter Florida is helpful for tenants seeking housing, even in properties with a "no pet" designation. A landlord cannot charge a tenant a pet fee for an ESA but can ask for charges if the ESA causes property damage.

Attachment: Response from Robin Gamache (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

Which Animals Are Considered ESA In Florida?

There is a clear difference between a trained service animal such as a dog or horse versus a companion emotional support animal. In the state of Florida, ESA animals are at the client's discretion. However, if substantial evidence suggests that a client's ESA is a danger or presents a problem for others, it may be denied.

Common ESAs include dogs, cats, snakes, rabbits, pigs, hedgehogs, horses, and ferrets. Just because a particular animal breed may have a questionable reputation or appears dangerous, there must be clear evidence to deny the request for accommodations for an ESA.

Attachment: Response from Robin Gamache (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

Frequently Asked Questions

Who Qualifies For An Emotional Support Animal?

Most persons seeking treatment for their mental health or emotional disability could benefit[7] from being prescribed an ESA. Common disabilities that qualify for an ESA include the following: Anxiety, Depression, Chronic Stress, Post-traumatic stress disorder, ADHD, Certain learning disabilities

Attachment: Response from Robin Gamache (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

Coronavirus (COVID-19) Updates

Telephone Problems Affecting Customer Service

Social Security

Apply Online for Disability Benefits

Social Security offers an online disability application you can complete at your convenience. Apply from the comfort of your home or any location at a time most convenient for you. You do not need to drive to your local Social Security office or wait for an appointment with a Social Security representative.

Who can apply for adult disability benefits online?

You can use the online application to apply for disability benefits if you:

- Are age 18 or older;
- Are not currently receiving benefits on your own Social Security record;
- Are unable to work because of a medical condition that is expected to last at least 12 months or result in death: and
- Have not been denied disability benefits in the last 60 days. If your application was recently denied for medical reasons, the Internet Appeal is a starting point to request a review of the medical determination we made.

How do I apply for benefits?

Publications

- Apply Online for Disability Benefits
- Disability Benefits
- Fact Sheet – Exclusion of Certain Medical Sources' Evidence

Related Information

- Disability Planner
- Information for Representatives
- What You Need to Know About The Online Disability Application
- Helping Someone Apply Online
- Information on Excluding Certain Medical Sources' Evidence

Attachment: Response from Robin Gamache (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

Florida Health Care Plans
An Independent Licensee of the Blue Cross and Blue Shield Association
P.O. Box 9910 • Daytona Beach, FL 32120 • www.fhcp.com
Phone: (386) 676-7100 • Toll Free: (800) 352-9824

1 February 2022

Neil Nipper, MD
461 S. Nova Road
Ormond Beach FL 32174

To Whom It May Concern,

I have served in the capacity of the primary care physician for Mrs. Robin Gamache (9/18/61) for the past few months since her diagnosis of Covid-19 Pneumonia in August 2021. She recently came to my office to request my support to designate her horse as an equine companion pet (ECP) and obtain a waiver of city ordinance which would allow her to relocate this emotional support animal at her home of residence in Holly Hill, FL.

Mrs. Gamache suffers from emotional anxiousness, a condition that has worsened after her lengthy struggle with her Covid-19 infection in August 2021. She feels uncomfortable in crowded areas and is challenged by directional navigation to visit her ECP as often as she would prefer. Her equine serves as helpful therapy for this behavioral health condition. Thus, from a medical standpoint, she meets all criteria for this designation of her ECP.

She has shared plans with me to modify her backyard to allow the safe-keeping of her ECP. She believes that relocating her ECP to her home of residence would be mutually beneficial. I have encouraged her to discuss her plans with neighbors to avoid unnecessary conflict should this waiver be granted.

Please feel free to contact me concerning this medical opinion at (386) 676-4437 or at nnipper@fhcp.com.

Sincerely,

Neil B. Nipper, MD
ABFM, EHCC/Case Management Physician
Florida Health Care Plans

Attachment: Response from Robin Gamache (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

Sec. 82-322. Evaluation of request for accommodation pursuant to the Fair Housing Act.

(a) A request may be made by the property owner or authorized representative for a request for an accommodation from the city's rules, policy, practices or service to allow a handicapped person or persons to have equal opportunity to use and enjoy a dwelling. The request shall be on an approved form issued by the city and must contain the following:

(1) Proof of ownership of the property which the request is being made or authorization from the property owner.

(2) Specifically identify the rules, policies, practices or services from which relief is being requested.

(3) Identify the nature of the disability of the occupants of the dwelling.

(4) Outline the minimum relief that is necessary to allow a handicapped person to use and enjoy the dwelling.

(5) Described in detail how the requested relief is necessary to allow a person with the above identified disability to be able to reasonably use and enjoy the dwelling.

(6) Access must be granted to the necessary city employees to inspect the dwelling.

(b) The city shall evaluate all necessary criteria, facts, rules, laws, etc., to make a determination as to whether the requested accommodation is reasonable, including, but not limited to:

(1) The policies and objectives of the city's comprehensive plan including the future land use designation of the property in question.

(2) The permitted uses, conditional uses and special exceptions allowed for the zoning designation of the property in question.

(3) The surrounding neighborhood, including zoning and future land use designations of the surrounding area.

(4) The capacity of existing city utilities and infrastructures to accommodate the requested use.

(5) Existing traffic patterns and traffic problems in the area that currently exists or may become a problem if the requested relief were granted.

(6) Potential for noise, dust or other impacts to the neighborhood.

(7) Ability of the existing dwelling to accommodate the requested variation, including bedrooms, bathrooms, outside parking and existing compliance with current building codes to determine the existence of any life and safety issues.

(8) The existence of any current code violations.

(9) The over-concentration of group homes in close proximity to the applicant.

(c) The board of planning and appeals shall review the application and all relevant facts and laws and make a recommendation to the city commission to approve, deny or approve with conditions. The city commission shall make the final determination.

(Ord. No. 2870, § 1, 6-8-10; Ord. No. 2987, § 1, 3-28-17)

Attachment: City Code - Evaluation_of_request_for_accommodation_pursuant_to_the_Fair_Housing_Act. (3747 : Request for a Reasonable

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-2000

OFFICE OF FAIR HOUSING
AND EQUAL OPPORTUNITY

SPECIAL ATTENTION OF:
HUD Regional and Field Office Directors of Public and Indian Housing (PIH); Housing; Community Planning and Development (CPD); Fair Housing and Equal Opportunity; and Regional Counsel; CPD, PIH, and Housing Program Providers

FHEO Notice: **FHEO-2020-01**
Issued: January 28, 2020
Expires: Effective until Amended, Superseded, or Rescinded.

Subject: Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act

1. **Purpose:** This notice explains certain obligations of housing providers under the Fair Housing Act (FHA) with respect to animals that individuals with disabilities may request as reasonable accommodations. There are two types of assistance animals: (1) service animals, and (2) other trained or untrained animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities (referred to in this guidance as a "support animal"). Persons with disabilities may request a reasonable accommodation for service animals and other types of assistance animals, including support animals, under the FHA. This guidance provides housing providers with a set of best practices for complying with the FHA when assessing requests for reasonable accommodations to keep animals in housing, including the information that a housing provider may need to know from a health care professional about an individual's need for an assistance animal in housing. This guidance replaces HUD's prior guidance, FHEO-2013-01, on housing providers' obligations regarding service animals and assistance animals. In particular, this guidance provides a set of best practices regarding the type and amount of documentation a housing provider may ask an individual with a disability to provide in support of an accommodation request for a support animal, including documentation of a disability (that is, physical or mental impairments that substantially limit at least one major life activity) or a disability-related need for a support animal when the disability or disability-related need for the animal is non-obvious and not known to the housing provider. By providing greater clarity through this guidance, HUD seeks to provide housing providers with a tool they may use to reduce burdens that they may face when they are uncertain about the type and amount of documentation they may need and may be permitted to request when an individual seeks to keep a support animal in housing. Housing providers may be subject to the requirements of several civil rights laws, including but not limited to the FHA, Section 504 of the Rehabilitation Act (Section 504), and the Americans with Disabilities Act (ADA). This guidance does not address how HUD will process complaints against housing providers under Section 504 or the ADA.

Attachment: HUD Documents (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

2. **Applicability:** This notice applies to all housing providers covered by the FHA.[1]

3. **Organization:** There are two sections to this notice. The first, "Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act," recommends a set of best practices for complying with the FHA when assessing accommodation requests involving animals to assist housing providers and help them avoid violations of the FHA. The second section to this notice, "Guidance on Documenting an Individual's Need for Assistance Animals in Housing," provides guidance on information that an individual seeking a reasonable accommodation for an assistance animal may need to provide to a housing provider about his or her disability-related need for the requested accommodation, including supporting information from a health care professional.

Questions regarding this notice may be directed to the HUD Office of Fair Housing and Equal Opportunity, Office of the Deputy Assistant Secretary for Enforcement and Programs, or your local HUD Office of Fair Housing and Equal Opportunity.

Anna María Farías, Assistant Secretary for
Fair Housing and Equal Opportunity

[1] The Fair Housing Act covers virtually all types of housing, including privately owned housing and federally assisted housing, with a few limited exceptions.

Attachment: HUD Documents (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act[2]

The Fair Housing Act (FHA) makes it unlawful for a housing provider[3] to refuse to make a reasonable accommodation that a person with a disability may need in order to have equal opportunity to enjoy and use a dwelling.[4] One common request housing providers receive is for a reasonable accommodation to providers' pet or no animal policies so that individuals with disabilities are permitted to use assistance animals in housing,[5] including public and common use areas.

Assistance animals are not pets. They are animals that do work, perform tasks, assist, and/or provide therapeutic emotional support for individuals with disabilities.[6] There are two types of assistance animals: (1) service animals, and (2) other animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities (referred to in this guidance as a "support animal").[7] An animal that does not qualify as a service animal or other type of assistance animal is a pet for purposes of the FHA and may be treated as a pet for purposes of the lease and the housing provider's rules and policies. A housing provider may exclude or charge a fee or deposit for pets in its discretion and subject to local law but not for service animals or other assistance animals.[8]

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[2] This document is an integral part of U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity Notice FHEO-2020-01, dated January 28, 2020 (sometimes referred to as the "Assistance Animal Notice").

[3] The term "housing provider" refers to any person or entity engaging in conduct covered by the FHA. Courts have applied the FHA to individuals, corporations, partnerships, associations, property owners, housing managers, homeowners and condominium associations, cooperatives, lenders, insurers, real estate agents, brokerage services, state and local governments, colleges and universities, as well as others involved in the provision of housing, residential lending, and other real estate-related services.

[4] 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204. Unless otherwise specified, all citations refer to those authorities effective as of the date of the publication of this guidance.

[5] For purposes of this guidance, the term "housing" refers to all housing covered by the Fair Housing Act, including apartments, condominiums, cooperatives, single family homes, nursing homes, assisted living facilities, group homes, domestic violence shelters, emergency shelters, homeless shelters, dormitories, and other types of housing covered by the FHA.

[6] *See* 24 C.F.R. § 5.303(a).

[7] Under the FHA, a disability is a physical or mental impairment that substantially limits one or more major life activities. *See* 24 C.F.R. § 100.201.

[8] *See* Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations Under the Fair Housing Act ("Joint Statement"), Q and A 11 (May 17, 2004), at https://www.hud.gov/sites/documents/huddojstatement.pdf; *Fair Hous. of the Dakotas, Inc. v. Goldmark Prop. Mgmt.*, 778 F. Supp. 2d 1028 (D.N.D. 2011). HUD views the Joint Statement as well-reasoned guidance on some of the topics addressed in this guidance. The Joint Statement, available to the public since 2004, has been cited from time to time by courts. *See, e.g., Bhogaita v. Altamonte Heights Condo. Ass'n*, 765 F.3d 1277, 1286 (11th Cir. 2014); *Sinisgallo*

Attachment: HUD Documents (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

As of the date of the issuance of this guidance, FHA complaints concerning denial of reasonable accommodations and disability access comprise almost 60% of all FHA complaints and those involving requests for reasonable accommodations for assistance animals are significantly increasing. In fact, such complaints are one of the most common types of fair housing complaints that HUD receives. In addition, most HUD charges of discrimination against a housing provider following a full investigation involve the denial of a reasonable accommodation to a person who has a physical or mental disability that the housing provider cannot readily observe.[9]

HUD is providing this guidance to help housing providers distinguish between a person with a non-obvious disability who has a legitimate need for an assistance animal and a person without a disability who simply wants to have a pet or avoid the costs and limitations imposed by housing providers' pet policies, such as pet fees or deposits. The guidance may also help persons with a disability who request a reasonable accommodation to use an assistance animal in housing.

While most requests for reasonable accommodations involve one animal, requests sometimes involve more than one animal (for example, a person has a disability-related need for both animals, or two people living together each have a disability-related need for a separate assistance animal). The decision-making process in this guidance can be used for all requests for exceptions or modifications to housing providers' rules, policies, practices, and/or procedures so persons with disabilities can have assistance animals in the housing where they reside.

This guidance is provided as a tool for housing providers and persons with a disability to use at their discretion and provides a set of best practices for addressing requests for reasonable accommodations to keep animals in housing where individuals with disabilities reside or seek to reside. It should be read together with HUD's regulations prohibiting discrimination under the FHA[10] —with which housing providers must comply— and the HUD/Department of Justice (DOJ) Joint Statement on Reasonable Accommodation under the Fair Housing Act, available at https://www.hud.gov/sites/documents/huddojstatement.pdf. A housing provider may also be subject to the Americans with Disabilities Act (ADA) and therefore should also refer to DOJ's regulations implementing Title II and Title III of the ADA at 28 C.F.R. parts 35 and 36 , and DOJ's guidance on service animals, *Frequently Asked Questions about Service Animals and the ADA* at https://www.ada.gov/regs2010/service_animal_qa.html and *ADA Requirements: Service Animals* at https://www.ada.gov/service_animals_2010.htm. This guidance replaces HUD's prior guidance on housing providers' obligations regarding service animals and assistance animals.[11] Housing

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v. Town of Islip Hous. Auth., 865 F. Supp. 2d 307, 336-42 (E.D.N.Y. 2012). However, HUD does not intend to imply that the Joint Statement is independently binding statutory or regulatory authority. HUD understands it to be subject to applicable limitations on the use of guidance. *See* "Treatment as a Guidance Document" on p.5 for a citation of authorities on permissible use of guidance.

[9] *See, e.g.*, *HUD v. Castillo Condominium Ass'n*, No. 12-M-034-FH-9, 2014 HUD ALJ LEXIS 2 (HUD Sec'y, October 02, 2014) aff'd, 821 F.3d 92 (1st Cir. 2016); *HUD v. Riverbay*, No. 11-F-052-FH-18, 2012 HUD ALJ LEXIS 15 (HUD ALJ, May 07, 2012), aff'd, 2012 ALJ LEXIS 19 (HUD Sec'y June 06, 2012).

[10] 24 C.F.R. Part 100.

[11] FHEO-2013-01.

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providers should not reassess requests for reasonable accommodations that were granted prior to the issuance of this guidance in compliance with the FHA.

Treatment as a Guidance Document

As a guidance document, this document does not expand or alter housing providers' obligations under the Fair Housing Act or HUD's implementing regulations. It should be construed consistently with Executive Order 13891 of October 9, 2019 entitled "Promoting the Rule of Law Through Improved Agency Guidance Documents," Executive Order 13892 of October 9, 2019 entitled "Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication," the Office of Management and Budget Memorandum M-20-02 entitled "Guidance Implementing Executive Order 13891, Titled 'Promoting the Rule of Law Through Improved Agency Guidance Documents,'" the Department of Justice Memorandum of January 25, 2018 entitled "Limiting Use of Agency Guidance Documents in Affirmative Civil Enforcement Cases," and the Department of Justice Memorandum of November 16, 2017 entitled "Prohibition on Improper Guidance Documents."

Part I: Service Animals

The FHA requires housing providers to modify or make exceptions to policies governing animals when it may be necessary to permit persons with disabilities to utilize animals.[12] Because HUD interprets the FHA to require access for individuals who use service animals, housing providers should initially follow the analysis that DOJ has determined is used for assessing whether an animal is a service animal under the ADA.[13] The Department of Justice's ADA regulations generally require state and local governments and public accommodations to permit the use of service animals by an individual with a disability.[14] For support animals and other assistance animals that may be necessary in housing, although the ADA does not provide for access, housing providers must comply with the FHA, which does provide for access.[15]

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[12] 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204. See also Pet Ownership for the Elderly and Persons with Disabilities – Final Rule, 73 Fed. Reg. 63833 (Oct. 27, 2008).

[13] 24 C.F.R. § 100.204(b).

[14] 28 C.F.R. §§ 35.136(g); 36.302(c)(7).

[15] Specifically, under the Fair Housing Act, housing providers are obligated to permit, as a reasonable accommodation, the use of animals that work, provide assistance, or perform tasks that benefit persons with disabilities, or provide emotional support to alleviate a symptom of effect of a disability. Separate regulations govern airlines and other common carriers, which are outside the scope of this guidance.

Attachment: HUD Documents (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

What is a service animal?

Under the ADA, "*service animal* means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability."[16]

As a best practice, housing providers may use the following questions to help them determine if an animal is a service animal under the ADA:[17]

1. Is the animal a dog?

   - If "yes," proceed to the next question.
   - If "no," the animal is not a service animal but may be another type of assistance animal for which a reasonable accommodation is needed.[18] Proceed to Part II below.

2. Is it readily apparent that the dog is trained to do work or perform tasks for the benefit of an individual with a disability?

   - If "yes," further inquiries are unnecessary and inappropriate because the animal is a service animal.[19]
   - If "no," proceed to the next question.

It is *readily apparent* when the dog is observed:

- guiding an individual who is blind or has low vision
- pulling a wheelchair
- providing assistance with stability or balance to an individual with an observable mobility disability[20]

3. It is advisable for the housing provider to limit its inquiries to the following two questions:

   - The housing provider may ask in substance: (1) "Is the animal required because of a

[16] 28 C.F.R. §§ 35.104; 36.104 (emphasis added).
[17] 28 C.F.R. §§ 35.136; 36.302(c).
[18] Although a miniature horse is not a service animal, DOJ has determined that the same type of analysis is applied to determine whether a miniature horse should be provided access, although additional considerations, beyond the scope of this guidance, apply. *See* 28 C.F.R. §§ 35.136(i); 36.302(c)(9).
[19] 28 C.F.R. §§ 35.136(f); 36.302(c)(6).
[20] 28 C.F.R. §§ 35.136(f); 36.302(c)(6).

Attachment: HUD Documents (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

disability?" and (2) "What work or task has the animal been trained to perform?"[21] Do not ask about the nature or extent of the person's disability, and do not ask for documentation. A housing provider, at its discretion, may make the truth and accuracy of information provided during the process part of the representations made by the tenant under a lease or similar housing agreement to the extent that the lease or agreement requires the truth and accuracy of other material information.

- If the answer to question (1) is "yes" and work or a task is identified in response to question (2), grant the requested accommodation, if otherwise reasonable, because the animal qualifies as a service animal.
- If the answer to either question is "no" or "none," the animal does not qualify as a service animal under federal law but may be a support animal or other type of assistance animal that needs to be accommodated. HUD offers guidance to housing providers on this in Part II.

Performing "work or tasks" means that the dog is trained to take a specific action when needed to assist the person with a disability.

- If the individual identifies at least one action the dog is trained to take which is helpful to the disability other than emotional support, the dog should be considered a service animal and permitted in housing, including public and common use areas. Housing providers should not make further inquiries.
- If no specific work or task is identified, the dog should not be considered a service animal but may be another type of animal for which a reasonable accommodation may be required. Emotional support, comfort, well-being, and companionship are not a specific work or task for purposes of analysis under the ADA.

For more information, refer to the ADA rules and service animal guidance on DOJ's ADA Home Page at www.ada.gov[22] or call the ADA Information Line at 1-800-514-0301.

Part II: Analysis of reasonable accommodation requests under the Fair Housing Act for assistance animals other than service animals

A **reasonable accommodation** is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have equal opportunity to use and enjoy a dwelling, including public and common use spaces.

Remember: While it is not necessary to submit a written request or to use the words "reasonable accommodation," "assistance animal," or any other special words to request a reasonable accommodation under the FHA, persons making a request are encouraged to do so in order to avoid

[21] 28 C.F.R. §§ 35.136(f); 36.302(c)(6).

[22] See *Frequently Asked Questions About Service Animals and the ADA* at https://www.ada.gov/regs2010/service_animal_qa.html; *ADA Requirements: Service Animals* at https://www.ada.gov/service_animals_2010.htm.

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miscommunication.[23] Persons with disabilities may also want to keep a copy of their reasonable accommodation requests and supporting documentation in case there is a later dispute about when or whether a reasonable accommodation request was made. Likewise, housing providers may find it helpful to have a consistently maintained list of reasonable accommodation requests.[24]

A resident may request a reasonable accommodation either before or after acquiring the assistance animal.[25] An accommodation also may be requested after a housing provider seeks to terminate the resident's lease or tenancy because of the animal's presence, although such timing may create an inference against good faith on the part of the person seeking a reasonable accommodation. However, under the FHA, a person with a disability may make a reasonable accommodation request at any time, and the housing provider must consider the reasonable accommodation request even if the resident made the request after bringing the animal into the housing.[26]

As a best practice, housing providers may use the following questions to help them make a decision when the animal does not meet the definition of service animal.[27]

4. Has the individual requested a reasonable accommodation — that is, asked to get or keep an animal in connection with a physical or mental impairment or disability?

Note: The request for a reasonable accommodation with respect to an assistance animal may be oral or written. It may be made by others on behalf of the individual, including a person legally residing in the unit with the requesting individual or a legal guardian or authorized representative.[28]

- If "yes," proceed to Part III.
- If "no," the housing provider is not required to grant a reasonable accommodation that has not been requested.

Part III: Criteria for assessing whether to grant the requested accommodation

As a best practice, housing providers may use the following questions to help them assess whether

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[23] See Joint Statement, Q and A 12 (May 17, 2004), at https://www.hud.gov/sites/documents/huddojstatement.pdf.
[24] See Joint Statement, Q and A 13 (May 17, 2004), at https://www.hud.gov/sites/documents/huddojstatement.pdf.
[25] *See* Joint Statement, Q and A 12 (May 17, 2004), at https://www.hud.gov/sites/documents/huddojstatement.pdf.
[26] *See* 24 C.F.R. § 100.204(a).
[27] *See Janush v. Charities Hous. Dev. Corp.*, 169 F.Supp.2d 1133, 1136-37 (N.D. Cal., 2000) (rejecting an argument that a definition of "service dog" should be read into the Fair Housing Act to create a rule that accommodation of animals other than service dogs is per se unreasonable, instead finding that "the law imposes on defendants the obligation to consider each request individually and to grant requests that are reasonable.").
[28] *See* Joint Statement, Q and A 12 (May 17, 2004), at https://www.hud.gov/sites/documents/huddojstatement.pdf.

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to grant the requested accommodation.

5. Does the person have an observable disability or does the housing provider (or agent making the determination for the housing provider) already have information giving them reason to believe that the person has a disability?

   - If "yes," skip to question #7 to determine if there is a connection between the person's disability and the animal.
   - If "no," continue to the next question.

Observable and Non-Observable Disabilities

Under the FHA, a disability is a physical or mental impairment that substantially limits one or more major life activities. While some impairments may seem invisible, others can be readily observed. Observable impairments include blindness or low vision, deafness or being hard of hearing, mobility limitations, and other types of impairments with observable symptoms or effects, such as intellectual impairments (including some types of autism), neurological impairments (*e.g.*, stroke, Parkinson's disease, cerebral palsy, epilepsy, or brain injury), mental illness, or other diseases or conditions that affect major life activities or bodily functions.[29] Observable impairments generally tend to be obvious and would not be reasonably attributable to non-medical causes by a lay person.

Certain impairments, however, especially including impairments that may form the basis for a request for an emotional support animal, may not be observable. In those instances, a housing provider may request information regarding both the disability and the disability-related need for the animal. Housing providers are not entitled to know an individual's diagnosis.

6. Has the person requesting the accommodation provided information that reasonably supports that the person seeking the accommodation has a disability?[30]

   - If "yes," proceed to question #7. A housing provider, at its discretion, may make the truth and accuracy of information provided during the process part of the representations made by the tenant under a lease or similar housing agreement to the extent that the lease or agreement requires the truth and accuracy of other material information.
   - If "no," the housing provider is not required to grant the accommodation unless this information is provided but may not deny the accommodation on the grounds that the person requesting the accommodation has not provided this information until the requester has been provided a reasonable opportunity to do so.[31] To assist the person requesting the

[29] *See* 24 C.F.R. § 100.201.

[30] *See* Joint Statement, Q and A 17 (May 17, 2004), at https://www.hud.gov/sites/documents/huddojstatement.pdf.

[31] This would not permit the housing provider to require any independent evaluation or diagnosis specifically obtained for the housing provider or for the housing provider to engage in its own direct

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accommodation to understand what information the housing provider is seeking, the housing provider is encouraged to direct the requester to the Guidance on Documenting an Individual's Need for Assistance Animals in Housing. Referring the requester to that Guidance will also help ensure that the housing provider receives the disability-related information that is actually needed to make a reasonable accommodation decision.

Information About Disability May Include . . .

- A determination of disability from a federal, state, or local government agency.
- Receipt of disability benefits or services (Social Security Disability Income (SSDI)), Medicare or Supplemental Security Income (SSI) for a person under age 65, veterans' disability benefits, services from a vocational rehabilitation agency, or disability benefits or services from another federal, state, or local agency.
- Eligibility for housing assistance or a housing voucher received because of disability.
- Information confirming disability from a health care professional – *e.g.*, physician, optometrist, psychiatrist, psychologist, physician's assistant, nurse practitioner, or nurse.

Note that a determination that an individual does not qualify as having a disability for purposes of a benefit or other program does not necessarily mean the individual does not have a disability for purposes of the FHA, Section 504, or the ADA.[32]

Disability Determination

Note that under DOJ's regulations implementing the ADA Amendments Act of 2008, which HUD considers instructive when determining whether a person has a disability under the FHA, some types of impairments will, in virtually all cases, be found to impose a substantial limitation on a major life activity resulting in a determination of a disability.[33] Examples include deafness, blindness, intellectual disabilities, partially or completely missing limbs or mobility impairments requiring the use of a wheelchair, autism, cancer, cerebral palsy, diabetes, epilepsy, muscular dystrophy, multiple sclerosis, Human Immunodeficiency Virus (HIV) infection, major depressive disorder, bipolar disorder, post-traumatic stress disorder, traumatic brain injury, obsessive compulsive disorder, and schizophrenia.[34] This does not mean that other conditions are not disabilities. It simply means that in virtually all cases these conditions will be covered as disabilities. While housing providers will be unable to observe or identify some of these impairments, individuals with disabilities sometimes voluntarily provide more details about their disability than the housing provider actually needs to make decisions on accommodation requests. When this information is provided, housing providers should consider it.

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evaluation. *See* Joint Statement, Q and A 17-18 (May 17, 2004), at https://www.hud.gov/sites/documents/huddojstatement.pdf.

[32] *See* Joint Statement, Q and A 18 (May 17, 2004), at https://www.hud.gov/sites/documents/huddojstatement.pdf.

[33] *See* 28 C.F.R. §§ 35.108(d)(2); 36.105(d)(2).

[34] *See* 28 C.F.R. §§ 35.108(d)(2)(iii); 36.105(d)(2)(iii).

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Documentation from the Internet

Some websites sell certificates, registrations, and licensing documents for assistance animals to anyone who answers certain questions or participates in a short interview and pays a fee. Under the Fair Housing Act, a housing provider may request reliable documentation when an individual requesting a reasonable accommodation has a disability and disability-related need for an accommodation that are not obvious or otherwise known.[35] In HUD's experience, such documentation from the internet is not, by itself, sufficient to reliably establish that an individual has a non-observable disability or disability-related need for an assistance animal.

By contrast, many legitimate, licensed health care professionals deliver services remotely, including over the internet. One reliable form of documentation is a note from a person's health care professional that confirms a person's disability and/or need for an animal when the provider has personal knowledge of the individual.

7. Has the person requesting the accommodation provided information which reasonably supports that the animal does work, performs tasks, provides assistance, and/or provides therapeutic emotional support with respect to the individual's disability?[36]

   - If "yes," proceed to Part IV. A housing provider, at its discretion, may make the truth and accuracy of information provided during the process part of the representations made by the tenant under a lease or similar housing agreement to the extent that the lease or agreement requires the truth and accuracy of other material information.
   - If "no," the housing provider is not required to grant the accommodation unless this information is provided but may not deny the accommodation on the grounds that the person requesting the accommodation has not provided this information until the requester has been provided a reasonable opportunity to do so. To assist the person requesting the accommodation to understand what information the housing provider is seeking, the housing provider is encouraged to direct the requester to the Guidance on Documenting an Individual's Need for Assistance Animals in Housing. Referring the requester to that Guidance will also help ensure that the housing provider receives the disability-related information that is actually needed to make a reasonable accommodation decision.

[35] *See* Joint Statement, Q and A 18 (May 17, 2004), at https://www.hud.gov/sites/documents/huddojstatement.pdf.

[36] *See Fair Hous. of the Dakotas, Inc. v. Goldmark Prop. Mgmt.*, 778 F. Supp. 2d 1028 (D.N.D. 2011) (determining that, in housing, a broader variety of assistance animals may be necessary as a reasonable accommodation, regardless of specific training).

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Information Confirming Disability-Related Need for an Assistance Animal. . .

- Reasonably supporting information often consists of information from a licensed health care professional – *e.g.*, physician, optometrist, psychiatrist, psychologist, physician's assistant, nurse practitioner, or nurse – general to the condition but specific as to the individual with a disability and the assistance or therapeutic emotional support provided by the animal.
- A relationship or connection between the disability and the need for the assistance animal must be provided. This is particularly the case where the disability is non-observable, and/or the animal provides therapeutic emotional support.
- For non-observable disabilities and animals that provide therapeutic emotional support, a housing provider may ask for information that is consistent with that identified in the Guidance on Documenting an Individual's Need for Assistance Animals in Housing (*see Questions 6 and 7) in order to conduct an individualized assessment of whether it must provide the accommodation under the Fair Housing Act. The lack of such documentation in many cases may be reasonable grounds for denying a requested accommodation.

Part IV: Type of Animal

8. Is the animal commonly kept in households?

- ➢ If "yes," the reasonable accommodation should be provided under the FHA unless the general exceptions described below exist.[37]
- ➢ If "no," a reasonable accommodation need not be provided, but note the very rare circumstances described below.

Animals commonly kept in households. If the animal is a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes, then the reasonable accommodation should be granted because the requestor has provided information confirming that there is a disability-related need for the animal.[38] For purposes of this assessment, reptiles (other than turtles), barnyard animals, monkeys, kangaroos, and other non-domesticated animals are not considered common household animals.

Unique animals. If the individual is requesting to keep a unique type of animal that is not commonly kept in households as described above, then the requestor has the substantial burden of demonstrating a disability-related therapeutic need for the specific animal or the specific type of animal. The individual is encouraged to submit documentation from a health care professional confirming the need for this animal, which includes information of the type set out in the Guidance on Documenting an Individual's Need for Assistance Animals in Housing. While this guidance

[37] *See, e.g., Majors v. Hous. Auth. of the Cnty. of DeKalb Georgia,* 652 F.2d 454, 457 (5th Cir. 1981) (enforcing a "no pets" rule against an individual with a disability who needs an animal as a reasonable accommodation effectively deprives the individual of the benefits of the housing).
[38] *See* 24 C.F.R. § 100.204(a).

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does not establish any type of new documentary threshold, the lack of such documentation in many cases may be reasonable grounds for denying a requested accommodation. If the housing provider enforces a "no pets" policy or a policy prohibiting the type of animal the individual seeks to have, the housing provider may take reasonable steps to enforce the policy if the requester obtains the animal before submitting reliable documentation from a health care provider that reasonably supports the requestor's disability-related need for the animal. As a best practice, the housing provider should make a determination promptly, generally within 10 days of receiving documentation.[39]

Reasonable accommodations may be necessary when the need for a unique animal involves unique circumstances …

Examples:

- The animal is individually trained to do work or perform tasks that cannot be performed by a dog.
- Information from a health care professional confirms that:
  - Allergies prevent the person from using a dog; or
  - Without the animal, the symptoms or effects of the person's disability will be significantly increased.
- The individual seeks to keep the animal outdoors at a house with a fenced yard where the animal can be appropriately maintained.

Example: A Unique Type of Support Animal

An individually trained capuchin monkey performs tasks for a person with paralysis caused by a spinal cord injury. The monkey has been trained to retrieve a bottle of water from the refrigerator, unscrew the cap, insert a straw, and place the bottle in a holder so the individual can get a drink of water. The monkey is also trained to switch lights on and off and retrieve requested items from inside cabinets. The individual has a disability-related need for this specific type of animal because the monkey can use its hands to perform manual tasks that a service dog cannot perform.

Part V: General Considerations

- The FHA does not require a dwelling to be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.[40] A housing provider may, therefore, refuse a reasonable accommodation for an assistance animal if the specific animal poses a direct threat that cannot be eliminated or reduced to an acceptable level through actions the individual takes to maintain or control the animal (e.g., keeping the

[39] *See* Joint Statement, Q and A 15 (May 17, 2004), at https://www.hud.gov/sites/documents/huddojstatement.pdf.
[40] *See* 24 C.F.R. § 100.202(d).

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animal in a secure enclosure).[41]

- A reasonable accommodation may include a reasonable accommodation to a land use and zoning law, Homeowners Association (HOA) rule, or co-op rule.[42]
- A housing provider may not charge a fee for processing a reasonable accommodation request.[43]
- Pet rules do not apply to service animals and support animals. Thus, housing providers may not limit the breed or size of a dog used as a service animal or support animal just because of the size or breed[44] but can, as noted, limit based on specific issues with the animal's conduct because it poses a direct threat or a fundamental alteration.[45]
- A housing provider may not charge a deposit, fee, or surcharge for an assistance animal. A housing provider, however, may charge a tenant for damage an assistance animal causes if it is the provider's usual practice to charge for damage caused by tenants (or deduct it from the standard security deposits imposed on all tenants).
- A person with a disability is responsible for feeding, maintaining, providing veterinary care, and controlling his or her assistance animal. The individual may do this on his or her own or with the assistance of family, friends, volunteers, or service providers.
- Individuals with disabilities and housing providers may reference the best practices provided in this guidance in making and responding to reasonable accommodation requests within the scope of this guidance for as long as it remains in effect. HUD strongly encourages individuals with disabilities and housing providers to give careful attention to this guidance when making reasonable accommodation requests and decisions relating to animals.
- Failure to adhere to this guidance does not necessarily constitute a violation by housing providers of the FHA or regulations promulgated thereunder.[46]
- Before denying a reasonable accommodation request due to lack of information confirming an individual's disability or disability-related need for an animal, the housing provider is encouraged to engage in a good-faith dialogue with the requestor called the "interactive process."[47] The housing provider may not insist on specific types of evidence if the information which is provided or actually known to the housing provider meets the requirements of this guidance (except as provided above). Disclosure of details about the diagnosis or severity of a disability or medical records or a medical examination cannot be required.

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[41] *See* Joint Statement Q and A 4 (May 17, 2004), at https://www.hud.gov/sites/documents/huddojstatement.pdf.

[42] *See Warren v. Delvista Towers Condo. Ass'n*, 49 F. Supp. 3d 1082 (S.D. Fla. 2014).

[43] *See* Joint Statement, Q and A 11 (May 17, 2004), at https://www.hud.gov/sites/documents/huddojstatement.pdf; *Fair Hous. of the Dakotas, Inc. v. Goldmark Prop. Mgmt.*, 778 F. Supp. 2d 1028 (D.N.D. 2011).

[44] *See, e.g.*, *Bhogaita v. Altamonte Heights Condo. Ass'n*, 765 F.3d 1277 (11th Cir. 2014) (reasonable accommodation to a housing provider's rule that all dogs must be under 25 pounds).

[45] *See* 24 C.F.R. § 100.202(d); Joint Statement, Q and A's 5 & 7 (May 17, 2004), at https://www.hud.gov/sites/documents/huddojstatement.pdf.

[46] *See* "Treatment as a Guidance Document" on p.5 for a citation of authorities on permissible use of guidance.

[47] *See* Joint Statement, Q and A 7 (May 17, 2004), at https://www.hud.gov/sites/documents/huddojstatement.pdf.

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If a reasonable accommodation request, provided under the framework of this guidance, is denied because it would impose a fundamental alteration to the nature of the provider's operations or impose an undue financial and administrative burden, the housing provider should engage in the interactive process to discuss whether an alternative accommodation may be effective in meeting the individual's disability-related needs.[48]

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[48] For guidance on what constitutes a fundamental alteration or an undue financial and administrative burden, refer to the HUD/DOJ Joint Statement on Reasonable Accommodation under the Fair Housing Act, available at https://www.hud.gov/sites/documents/huddojstatement.pdf.

Guidance on Documenting an Individual's Need for Assistance Animals in Housing

This section provides best practices for documenting an individual's need for assistance animals in housing. It offers a summary of information that a housing provider may need to know from a health care professional about an individual's need for an assistance animal in housing. It is intended to help individuals with disabilities explain to their health care professionals the type of information that housing providers may need to help them make sometimes difficult legal decisions under fair housing laws. It also will help an individual with a disability and their health care provider understand what information may be needed to support an accommodation request when the disability or disability-related need for an accommodation is not readily observable or known by the housing provider. Housing providers may not require a health care professional to use a specific form (including this document), to provide notarized statements, to make statements under penalty of perjury, or to provide an individual's diagnosis or other detailed information about a person's physical or mental impairments.[49] Housing providers and the U.S. Department of Housing and Urban Development rely on professionals to provide accurate information to the best of their personal knowledge, consistent with their professional obligations. This document only provides assistance on the type of information that may be needed under the Fair Housing Act (FHA). The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. Further, this document does not create any obligation to provide health-care information and does not authorize or solicit the collection of any information not otherwise permitted by the FHA.[50]

The Appendix to this Guide answers some commonly asked questions about terms and issues below. An understanding of the terms and issues is helpful to providing this information.

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When providing this information, health care professionals should use personal knowledge of their patient/client – *i.e.*, the knowledge used to diagnose, advise, counsel, treat, or provide health care or other disability-related services to their patient/client. **Information relating to an individual's disability and health conditions must be kept confidential and cannot be shared with other**

[49] *See* Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations Under the Fair Housing Act ("Joint Statement"), Q and A's 13, 16-18 (May 17, 2004), at https://www.hud.gov/sites/documents/huddojstatement.pdf.

[50] This guidance does not expand on the obligations under the FHA or HUD's regulations and should be construed consistently with Executive Order 13891 of October 9, 2019 entitled "Promoting the Rule of Law Through Improved Agency Guidance Documents," Executive Order 13892 of October 9, 2019 entitled "Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication," the Department of Justice Memorandum of January 25, 2018 entitled "Limiting Use of Agency Guidance Documents in Affirmative Civil Enforcement Cases," and the Department of Justice Memorandum of November 16, 2017 entitled "Prohibition on Improper Guidance Documents."

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persons unless the information is needed for evaluating whether to grant or deny a reasonable accommodation request or unless disclosure is required by law.[51]

As a best practice, documentation contemplated in certain circumstances by the Assistance Animals Guidance is recommended to include the following general information:

- The patient's name,
- Whether the health care professional has a professional relationship with that patient/client involving the provision of health care or disability-related services, and
- The type of animal(s) for which the reasonable accommodation is sought (i.e., dog, cat, bird, rabbit, hamster, gerbil, other rodent, fish, turtle, other specified type of domesticated animal, or other specified unique animal).[52]

Disability-related information. A disability for purposes of fair housing laws exists when a person has a physical or mental impairment that substantially limits one or more major life activities.[53] Addiction caused by current, illegal use of a controlled substance does not qualify as a disability.[54] As a best practice, it is recommended that individuals seeking reasonable accommodations for support animals ask health care professionals to provide information related to the following:

- Whether the patient has a physical or mental impairment,
- Whether the patient's impairment(s) substantially limit at least one major life activity or major bodily function, and
- Whether the patient needs the animal(s) (because it does work, provides assistance, or performs at least one task that benefits the patient because of his or her disability, or because it provides therapeutic emotional support to alleviate a symptom or effect of the disability of the patient/client, and not merely as a pet).

Additionally, if the animal is not a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes, it may be helpful for patients to ask health care professionals to provide the following additional information:

- The date of the last consultation with the patient,
- Any unique circumstances justifying the patient's need for the particular animal (if already owned or identified by the individual) or particular type of animal(s), and
- Whether the health care professional has reliable information about this specific animal or

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[51] *See* Joint Statement, Q and A 18 (May 17, 2004), at https://www.hud.gov/sites/documents/huddojstatement.pdf.

[52] *See, e.g.*, *Janush v. Charities Housing Development Corporation*, 169 F.Supp.2d 1133, 1136-37 (N.D. Cal. 2000) (rejecting an argument that a definition of "service dog" should be read into the Fair Housing Act to create a rule that accommodation of animals other than service dogs is per se unreasonable, finding that "the law imposes on defendants the obligation to consider each request individually and to grant requests that are reasonable.").

[53] 24 C.F.R. § 100.201.

[54] 24 C.F.R. § 100.201.

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whether they specifically recommended this type of animal.

It is also recommended that the health care professional sign and date any documentation provided and provide contact information and any professional licensing information.

Appendix

What are assistance animals?

Assistance animals do work, perform tasks, provide assistance, or provide emotional support for a person with a physical or mental impairment that substantially limits at least one major life activity or bodily function.[55]

What are physical or mental impairments?

Physical or mental impairments include: any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

Any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disability; or

Diseases and conditions such as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.[56]

What are major life activities or major bodily functions?

They are: seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, and working.[57]

Other impairments – based on specific facts in individual cases -- may also substantially limit at least one major life activity or bodily function.[58]

What are Some Examples of Work, Tasks, Assistance, and Emotional Support?

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[55] *See* 24 C.F.R. §§ 5.303; 960.705.
[56] *See* 24 C.F.R. § 100.201.
[57] *See* 24 C.F.R. § 100.201(b).
[58] *See* 24 C.F.R. § 100.201.

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Some examples of work and tasks that are commonly performed by service dogs include[59]:

- Assisting individuals who are blind or have low vision with navigation and other tasks,
- Alerting individuals who are deaf or hard of hearing to the presence of people or sounds,
- Providing non-violent protection or rescue work,
- Pulling a wheelchair,
- Alerting a person with epilepsy to an upcoming seizure and assisting the individual during the seizure,
- Alerting individuals to the presence of allergens,
- Retrieving the telephone or summoning emergency assistance, or
- Providing physical support and assistance with balance and stability to individuals with mobility disabilities.

Some other examples of work, tasks or other types of assistance provided by animals include:[60]

- Helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors,
- Reminding a person with mental illness to take prescribed medication,
- Alerting a person with diabetes when blood sugar is high or low,
- Taking an action to calm a person with post-traumatic stress disorder (PTSD) during an anxiety attack,
- Assisting the person in dealing with disability-related stress or pain,
- Assisting a person with mental illness to leave the isolation of home or

to interact with others,

- Enabling a person to deal with the symptoms or effects of major depression by providing a reason to live, or
- Providing emotional support that alleviates at least one identified symptom or effect of a physical or mental impairment.

What are examples of a patient's need for a unique animal or unique circumstances?[61]

- The animal is individually trained to do work or perform tasks that cannot be performed by a dog.
- Information from a health care professional confirms that:
    - Allergies prevent the person from using a dog, or
    - Without the animal, the symptoms or effects of the person's disability will be significantly increased.
- The individual seeks a reasonable accommodation to a land use and zoning law, Homeowners Association (HOA) rule, or condominium or co-op rule.
- The individual seeks to keep the animal outdoors at a house with a fenced yard where the animal can be appropriately maintained.

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[59] *See* 28 C.F.R. §§ 35.136(f); 36.302(c)(6).

[60] *See, e.g., Majors v. Housing Authority of the County of DeKalb Georgia,* 652 F.2d 454, 457 (5th Cir. 1981); *Janush*, 169 F.Supp.2d at 1136-37.

[61] *See, e.g., Anderson v. City of Blue Ash*, 798 F.3d 338, 360-63 (6th Cir. 2015) (seeking a reasonable accommodation to keep a miniature horse as an assistance animal).

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1 February 2022

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Ormond Beach FL 32174

To Whom It May Concern,

I have served in the capacity of the primary care physician for Mrs. Robin Gamache (9/18/61) for the past few months since her diagnosis of Covid-19 Pneumonia in August 2021. She recently came to my office to request my support to designate her horse as an equine companion pet (ECP) and obtain a waiver of city ordinance which would allow her to relocate this emotional support animal at her home of residence in Holly Hill, FL.

Mrs. Gamache suffers from emotional anxiousness, a condition that has worsened after her lengthy struggle with her Covid-19 infection in August 2021. She feels uncomfortable in crowded areas and is challenged by directional navigation to visit her ECP as often as she would prefer. Her equine serves as helpful therapy for this behavioral health condition. Thus, from a medical standpoint, she meets all criteria for this designation of her ECP.

She has shared plans with me to modify her backyard to allow the safe-keeping of her ECP. She believes that relocating her ECP to her home of residence would be mutually beneficial. I have encouraged her to discuss her plans with neighbors to avoid unnecessary conflict should this waiver be granted.

Please feel free to contact me concerning this medical opinion at (386) 676-4437 or at nnipper@fhcp.com.

Sincerely,

Neil B. Nipper, MD
ABFM, EHCC/Case Management Physician
Florida Health Care Plans

Attachment: Letter from Dr. Nipper (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)



U.S. DEPARTMENT OF JUSTICE
CIVIL RIGHTS DIVISION



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY

Washington, D.C.
May 17, 2004

JOINT STATEMENT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE DEPARTMENT OF JUSTICE

REASONABLE ACCOMMODATIONS UNDER THE FAIR HOUSING ACT

Introduction

The Department of Justice ("DOJ") and the Department of Housing and Urban Development ("HUD") are jointly responsible for enforcing the federal Fair Housing Act[1] (the "Act"), which prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, familial status, and disability.[2] One type of disability discrimination prohibited by the Act is the refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling.[3] HUD and DOJ frequently respond to complaints alleging that housing providers have violated the Act by refusing reasonable accommodations to persons with disabilities. This Statement provides technical assistance regarding the rights and obligations of persons with disabilities and housing providers under the Act relating to

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1 The Fair Housing Act is codified at 42 U.S.C. §§ 3601 - 3619. 2

The Act uses the term “handicap” instead of the term "disability." Both terms have the same legal meaning. *See* Bragdon v. Abbott, 524 U.S. 624, 631 (1998) (noting that definition of “disability” in the Americans with Disabilities Act is drawn almost verbatim “from the definition

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of 'handicap' contained in the Fair Housing Amendments Act of 1988"). This document uses the term "disability," which is more generally accepted. [3]

42 U.S.C. § 3604(f)(3)(B).

reasonable accommodations.[4]

Questions and Answers

1. What types of discrimination against persons with disabilities does the Act prohibit?

The Act prohibits housing providers from discriminating against applicants or residents because of their disability or the disability of anyone associated with them[5] and from treating persons with disabilities less favorably than others because of their disability. The Act also makes it unlawful for any person to refuse "to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford ... person(s) [with disabilities] equal opportunity to use and enjoy a dwelling."[6] The Act also prohibits housing providers from refusing residency to persons with disabilities, or placing conditions on their residency, because those persons may require reasonable accommodations. In addition, in certain circumstances, the Act requires that housing providers allow residents to

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[4] Housing providers that receive federal financial assistance are also subject to the requirements of Section 504 of the Rehabilitation Act of l973. 29 U.S.C. § 794. Section 504, and its implementing regulations at 24 C.F.R. Part 8, prohibit discrimination based on disability and require recipients of federal financial assistance to provide reasonable accommodations to applicants and residents with disabilities. Although Section 504 imposes greater obligations than the Fair Housing Act, (*e.g.*, providing and paying for reasonable accommodations that involve structural modifications to units or public and common areas), the principles discussed in this Statement regarding reasonable accommodation under the Fair Housing Act generally apply to requests for reasonable accommodations to rules, policies, practices, and services under Section 504. *See* U.S. Department of Housing and Urban Development, Office of Public and Indian
Housing, Notice PIH 2002-01(HA) (www.hud.gov/offices/fheo/disabilities/PIH02-01.pdf) and "Section 504: Frequently Asked Questions," (www.hud.gov/offices/fheo/disabilities/sect504faq.cfm#anchor272118). [5]

The Fair Housing Act's protection against disability discrimination covers not only home seekers with disabilities but also buyers and renters without disabilities who live or are associated with individuals with disabilities 42 U.S.C. § 3604(f)(1)(B), 42 U.S.C. § 3604(f)(1)(C), 42 U.S.C. § 3604(f)(2)(B), 42 U.S.C. § (f)(2)(C). *See also* H.R. Rep. 100-711 – 24 (reprinted in 1988 U.S.C.A.N. 2173, 2184-85) ("The Committee intends these provisions to prohibit not only discrimination against the primary purchaser or named lessee, but also to

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prohibit denials of housing opportunities to applicants because they have children, parents, friends, spouses, roommates, patients, subtenants or other associates who have disabilities."). *Accord*: Preamble to Proposed HUD Rules Implementing the Fair Housing Act, 53 Fed.

Reg. 45001 (Nov. 7, 1988) (citing House Report). [6]

42 U.S.C. § 3604(f)(3)(B). HUD regulations pertaining to reasonable accommodations may be found at 24 C.F.R. § 100.204.

make reasonable structural modifications to units and public/common areas in a dwelling when those modifications may be necessary for a person with a disability to have full enjoyment of a dwelling.[1] With certain limited exceptions (*see* response to question 2 below), the Act applies to privately and publicly owned housing, including housing subsidized by the federal government or rented through the use of Section 8 voucher assistance.

2. Who must comply with the Fair Housing Act's reasonable accommodationrequirements?

Any person or entity engaging in prohibited conduct – *i.e.*, refusing to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling – may be held liable unless they fall within an exception to the Act's coverage. Courts have applied the Act to individuals, corporations, associations and others involved in the provision of housing and residential lending, including property owners, housing managers, homeowners and condominium associations, lenders, real estate agents, and brokerage services. Courts have also applied the Act to state and local governments, most often in the context of exclusionary zoning or other land-use decisions. *See e.g.*, City of Edmonds v. Oxford House, Inc., 514 U.S. 725, 729 (1995); Project Life v. Glendening, 139 F. Supp. 703, 710 (D. Md. 2001), aff'd 2002 WL 2012545 (4th Cir. 2002). Under specific exceptions to the Fair Housing Act, the reasonable accommodation requirements of the Act do not apply to a private individual owner who sells his own home so long as he (1) does not own more than three single-family homes; (2) does not use a real estate agent and does not employ any discriminatory advertising or notices; (3) has not engaged in a similar sale of a home within a 24-month period; and (4) is not in the business of selling or renting dwellings. The reasonable accommodation requirements of the Fair Housing Act also do not apply to owner-occupied buildings that have four or fewer dwelling units.

3. Who qualifies as a person with a disability under the Act?

The Act defines a person with a disability to include (1) individuals with a physical or mental impairment that substantially limits one or more major life activities; (2) individuals who

[1] This Statement does not address the principles relating to reasonable modifications. For further information see the HUD regulations at 24 C.F.R. § 100.203. This statement also does not address the additional requirements imposed on recipients of Federal financial assistance pursuant to Section 504, as explained in the Introduction.

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are regarded as having such an impairment; and (3) individuals with a record of such an impairment.

The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

The term "substantially limits" suggests that the limitation is "significant" or "to a large degree."

The term "major life activity" means those activities that are of central importance to daily life, such as seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, and speaking.[2] This list of major life activities is not exhaustive. *See e.g.*, Bragdon v. Abbott, 524 U.S. 624, 691-92 (1998)(holding that for certain individuals reproduction is a major life activity).

4. Does the Act protect juvenile offenders, sex offenders, persons who illegally usecontrolled substances, and persons with disabilities who pose a significant danger to others?

No, juvenile offenders and sex offenders, by virtue of that status, are not persons with disabilities protected by the Act. Similarly, while the Act does protect persons who are recovering from substance abuse, it does not protect persons who are currently engaging in the current illegal use of controlled substances.[9] Additionally, the Act does not protect an individual with a disability whose tenancy would constitute a "direct threat" to the health or safety of other individuals or result in substantial physical damage to the property of others unless the threat can be eliminated or significantly reduced by reasonable accommodation.

5. How can a housing provider determine if an individual poses a direct threat?

The Act does not allow for exclusion of individuals based upon fear, speculation, or stereotype about a particular disability or persons with disabilities in general. A determination

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[2] The Supreme Court has questioned but has not yet ruled on whether "working" is to be considered a major life activity. See Toyota Motor Mfg, Kentucky, Inc. v. Williams, 122 S. Ct. 681, 692, 693 (2002). If it is a major activity, the Court has noted that a claimant would be required to show an inability to work in a "broad range of jobs" rather than a specific job. *See* Sutton v. United Airlines, Inc., 527 U.S. 470, 492 (1999). 9 th

See, e.g., United States v. Southern Management Corp., 955 F.2d 914, 919 (4 Cir. 1992) (discussing exclusion in 42 U.S.C. § 3602(h) for "current, illegal use of or addiction to a controlled substance").

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that an individual poses a direct threat must rely on an individualized assessment that is based on reliable objective evidence (*e.g.*, current conduct, or a recent history of overt acts). The assessment must consider: (1) the nature, duration, and severity of the risk of injury; (2) the probability that injury will actually occur; and (3) whether there are any reasonable accommodations that will eliminate the direct threat. Consequently, in evaluating a recent history of overt acts, a provider must take into account whether the individual has received intervening treatment or medication that has eliminated the direct threat (*i.e.*, a significant risk of substantial harm). In such a situation, the provider may request that the individual document how the circumstances have changed so that he no longer poses a direct threat. A provider may also obtain satisfactory assurances that the individual will not pose a direct threat during the tenancy. The housing provider must have reliable, objective evidence that a person with a disability poses a direct threat before excluding him from housing on that basis.

Example 1: A housing provider requires all persons applying to rent an apartment to complete an application that includes information on the applicant's current place of residence. On her application to rent an apartment, a woman notes that she currently resides in Cambridge House. The manager of the apartment complex knows that Cambridge House is a group home for women receiving treatment for alcoholism. Based solely on that information and his personal belief that alcoholics are likely to cause disturbances and damage property, the manager rejects the applicant. The rejection is unlawful because it is based on a generalized stereotype related to a disability rather than an individualized assessment of any threat to other persons or the property of others based on reliable, objective evidence about the applicant's recent past conduct. The housing provider may not treat this applicant differently than other applicants based on his subjective perceptions of the potential problems posed by her alcoholism by requiring additional documents, imposing different lease terms, or requiring a higher security deposit. However, the manager could have checked this applicant's references to the same extent and in the same manner as he would have checked any other applicant's references. If such a reference check revealed objective evidence showing that this applicant had posed a direct threat to persons or property in the recent past and the direct threat had not been eliminated, the manager could then have rejected the applicant based on direct threat.

Example 2: James X, a tenant at the Shady Oaks apartment complex, is arrested for threatening his neighbor while brandishing a baseball bat. The Shady Oaks' lease agreement contains a term prohibiting tenants from threatening violence against other residents. Shady Oaks' rental manager investigates the incident and learns that James X threatened the other resident with physical violence and had to be physically restrained by other neighbors to keep him from acting on his threat. Following Shady Oaks' standard practice of strictly enforcing its "no threats" policy, the Shady Oaks rental manager issues James X a 30-day notice to quit, which is the first step in the eviction process. James X's attorney contacts Shady Oaks' rental manager and explains that James X has a psychiatric

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disability that causes him to be physically violent when he stops taking his prescribed medication. Suggesting that his client will not pose a direct threat to others if proper safeguards are taken, the attorney requests that the rental manager grant James X an exception to the "no threats" policy as a reasonable accommodation based on James X's disability. The Shady Oaks rental manager need only grant the reasonable accommodation if James X's attorney can provide satisfactory assurance that James X will receive appropriate counseling and periodic medication monitoring so that he will no longer pose a direct threat during his tenancy. After consulting with James X, the attorney responds that James X is unwilling to receive counseling or submit to any type of periodic monitoring to ensure that he takes his prescribed medication. The rental manager may go forward with the eviction proceeding, since James X continues to pose a direct threat to the health or safety of other residents.

6. What is a "reasonable accommodation" for purposes of the Act?

A "reasonable accommodation" is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since rules, policies, practices, and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling. The Act makes it unlawful to refuse to make reasonable accommodations to rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling.

To show that a requested accommodation may be necessary, there must be an identifiable relationship, or nexus, between the requested accommodation and the individual's disability.

Example 1: A housing provider has a policy of providing unassigned parking spaces to residents. A resident with a mobility impairment, who is substantially limited in her ability to walk, requests an assigned accessible parking space close to the entrance to her unit as a reasonable accommodation. There are available parking spaces near the entrance to her unit that are accessible, but those spaces are available to all residents on a first come, first served basis. The provider must make an exception to its policy of not providing assigned parking spaces to accommodate this resident.

Example 2: A housing provider has a policy of requiring tenants to come to the rental office in person to pay their rent. A tenant has a mental disability that makes her afraid to leave her unit. Because of her disability, she requests that she be permitted to have a friend mail her rent payment to the rental office as a reasonable accommodation. The provider must make an exception to its payment policy to accommodate this tenant.

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Example 3: A housing provider has a "no pets" policy. A tenant who is deaf requests that the provider allow him to keep a dog in his unit as a reasonable accommodation. The tenant explains that the dog is an assistance animal that will alert him to several sounds, including knocks at the door, sounding of the smoke detector, the telephone ringing, and cars coming into the driveway. The housing provider must make an exception to its "no pets" policy to accommodate this tenant.

7. Are there any instances when a provider can deny a request for a reasonable accommodation without violating the Act?

Yes. A housing provider can deny a request for a reasonable accommodation if the request was not made by or on behalf of a person with a disability or if there is no disabilityrelated need for the accommodation. In addition, a request for a reasonable accommodation may be denied if providing the accommodation is not reasonable – *i.e.*, if it would impose an undue financial and administrative burden on the housing provider or it would fundamentally alter the nature of the provider's operations. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the cost of the requested accommodation, the financial resources of the provider, the benefits that the accommodation would provide to the requester, and the availability of alternative accommodations that would effectively meet the requester's disability-related needs.

When a housing provider refuses a requested accommodation because it is not reasonable, the provider should discuss with the requester whether there is an alternative accommodation that would effectively address the requester's disability-related needs without a fundamental alteration to the provider's operations and without imposing an undue financial and administrative burden. If an alternative accommodation would effectively meet the requester's disability-related needs and is reasonable, the provider must grant it. An interactive process in which the housing provider and the requester discuss the requester's disability-related need for the requested accommodation and possible alternative accommodations is helpful to all concerned because it often results in an effective accommodation for the requester that does not pose an undue financial and administrative burden for the provider.

Example: As a result of a disability, a tenant is physically unable to open the dumpster placed in the parking lot by his housing provider for trash collection. The tenant requests that the housing provider send a maintenance staff person to his apartment on a daily basis to collect his trash and take it to the dumpster. Because the housing development is a small operation with limited financial resources and the maintenance staff are on site only twice per week, it may be an undue financial and administrative burden for the housing provider to grant the requested daily trash pick-up service. Accordingly, the requested accommodation may not be reasonable. If the housing provider denies the requested accommodation as unreasonable, the housing provider should discuss with the tenant whether reasonable accommodations could be provided to meet the tenant's disability-related needs – for instance, placing an open trash

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collection can in a location that is readily accessible to the tenant so the tenant can dispose of his own trash and the provider's maintenance staff can then transfer the trash to the dumpster when they are on site. Such an accommodation would not involve a fundamental alteration of the provider's operations and would involve little financial and administrative burden for the provider while accommodating the tenant's disability-related needs.

There may be instances where a provider believes that, while the accommodation requested by an individual is reasonable, there is an alternative accommodation that would be equally effective in meeting the individual's disability-related needs. In such a circumstance, the provider should discuss with the individual if she is willing to accept the alternative accommodation. However, providers should be aware that persons with disabilities typically have the most accurate knowledge about the functional limitations posed by their disability, and an individual is not obligated to accept an alternative accommodation suggested by the provider if she believes it will not meet her needs and her preferred accommodation is reasonable.

8. What is a "fundamental alteration"?

A "fundamental alteration" is a modification that alters the essential nature of a provider's operations.

Example: A tenant has a severe mobility impairment that substantially limits his ability to walk. He asks his housing provider to transport him to the grocery store and assist him with his grocery shopping as a reasonable accommodation to his disability. The provider does not provide any transportation or shopping services for its tenants, so granting this request would require a fundamental alteration in the nature of the provider's operations. The request can be denied, but the provider should discuss with the requester whether there is any alternative accommodation that would effectively meet the requester's disability-related needs without fundamentally altering the nature of its operations, such as reducing the tenant's need to walk long distances by altering its parking policy to allow a volunteer from a local community service organization to park her car close to the tenant's unit so she can transport the tenant to the grocery store and assist him with his shopping.

9. What happens if providing a requested accommodation involves some costs onthe part of the housing provider?

Courts have ruled that the Act may require a housing provider to grant a reasonable accommodation that involves costs, so long as the reasonable accommodation does not pose an undue financial and administrative burden and the requested accommodation does not constitute a fundamental alteration of the provider's operations. The financial resources of the provider, the cost of the reasonable accommodation, the benefits to the requester of the requested accommodation, and the availability of other, less expensive alternative accommodations that would effectively meet the applicant or resident's disability-related needs must be considered in

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determining whether a requested accommodation poses an undue financial and administrative burden.

10. What happens if no agreement can be reached through the interactive process?

A failure to reach an agreement on an accommodation request is in effect a decision by the provider not to grant the requested accommodation. If the individual who was denied an accommodation files a Fair Housing Act complaint to challenge that decision, then the agency or court receiving the complaint will review the evidence in light of applicable law- and decide if the housing provider violated that law. For more information about the complaint process, see question 19 below.

11. May a housing provider charge an extra fee or require an additional depositfrom applicants or residents with disabilities as a condition of granting a reasonable accommodation?

No. Housing providers may not require persons with disabilities to pay extra fees or deposits as a condition of receiving a reasonable accommodation.

Example 1: A man who is substantially limited in his ability to walk uses a motorized scooter for mobility purposes. He applies to live in an assisted living facility that has a policy prohibiting the use of motorized vehicles in buildings and elsewhere on the premises. It would be a reasonable accommodation for the facility to make an exception to this policy to permit the man to use his motorized scooter on the premises for mobility purposes. Since allowing the man to use his scooter in the buildings and elsewhere on the premises is a reasonable accommodation, the facility may not condition his use of the scooter on payment of a fee or deposit or on a requirement that he obtain liability insurance relating to the use of the scooter. However, since the Fair Housing Act does not protect any person with a disability who poses a direct threat to the person or property of others, the man must operate his motorized scooter in a responsible manner that does not pose a significant risk to the safety of other persons and does not cause damage to other persons' property. If the individual's use of the scooter causes damage to his unit or the common areas, the housing provider may charge him for the cost of repairing the damage (or deduct it from the standard security deposit imposed on all tenants), if it is the provider's practice to assess tenants for any damage they cause to the premises.

Example 2: Because of his disability, an applicant with a hearing impairment needs to keep an assistance animal in his unit as a reasonable accommodation. The housing provider may not require the applicant to pay a fee or a security deposit as a condition of allowing the applicant to keep the assistance animal. However, if a tenant's assistance animal causes damage to the applicant's unit or the common areas of the dwelling, the housing provider may charge the tenant for

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the cost of repairing the damage (or deduct it from the standard security deposit imposed on all tenants), if it is the provider's practice to assess tenants for any damage they cause to the premises.

12. When and how should an individual request an accommodation?

Under the Act, a resident or an applicant for housing makes a reasonable accommodation request whenever she makes clear to the housing provider that she is requesting an exception, change, or adjustment to a rule, policy, practice, or service because of her disability. She should explain what type of accommodation she is requesting and, if the need for the accommodation is not readily apparent or not known to the provider, explain the relationship between the requested accommodation and her disability.

An applicant or resident is not entitled to receive a reasonable accommodation unless she requests one. However, the Fair Housing Act does not require that a request be made in a particular manner or at a particular time. A person with a disability need not personally make the reasonable accommodation request; the request can be made by a family member or someone else who is acting on her behalf. An individual making a reasonable accommodation request does not need to mention the Act or use the words "reasonable accommodation." However, the requester must make the request in a manner that a reasonable person would understand to be a request for an exception, change, or adjustment to a rule, policy, practice, or service because of a disability.

Although a reasonable accommodation request can be made orally or in writing, it is usually helpful for both the resident and the housing provider if the request is made in writing. This will help prevent misunderstandings regarding what is being requested, or whether the request was made. To facilitate the processing and consideration of the request, residents or prospective residents may wish to check with a housing provider in advance to determine if the provider has a preference regarding the manner in which the request is made. However, housing providers must give appropriate consideration to reasonable accommodation requests even if the requester makes the request orally or does not use the provider's preferred forms or procedures for making such requests.

Example: A tenant in a large apartment building makes an oral request that she be assigned a mailbox in a location that she can easily access because of a physical disability that limits her ability to reach and bend. The provider would prefer that the tenant make the accommodation request on a pre-printed form, but the tenant fails to complete the form. The provider must consider the reasonable accommodation request even though the tenant would not use the provider's designated form.

13. Must a housing provider adopt formal procedures for processing requests for a reasonable accommodation?

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No. The Act does not require that a housing provider adopt any formal procedures for reasonable accommodation requests. However, having formal procedures may aid individuals with disabilities in making requests for reasonable accommodations and may aid housing providers in assessing those requests so that there are no misunderstandings as to the nature of the request, and, in the event of later disputes, provide records to show that the requests received proper consideration.

A provider may not refuse a request, however, because the individual making the request did not follow any formal procedures that the provider has adopted. If a provider adopts formal procedures for processing reasonable accommodation requests, the provider should ensure that the procedures, including any forms used, do not seek information that is not necessary to evaluate if a reasonable accommodation may be needed to afford a person with a disability equal opportunity to use and enjoy a dwelling. See Questions 16 - 18, which discuss the disabilityrelated information that a provider may and may not request for the purposes of evaluating a reasonable accommodation request.

14. Is a housing provider obligated to provide a reasonable accommodation to aresident or applicant if an accommodation has not been requested?

No. A housing provider is only obligated to provide a reasonable accommodation to a resident or applicant if a request for the accommodation has been made. A provider has notice that a reasonable accommodation request has been made if a person, her family member, or someone acting on her behalf requests a change, exception, or adjustment to a rule, policy, practice, or service because of a disability, even if the words "reasonable accommodation" are not used as part of the request.

15. What if a housing provider fails to act promptly on a reasonable accommodation request?

A provider has an obligation to provide prompt responses to reasonable accommodation requests. An undue delay in responding to a reasonable accommodation request may be deemed to be a failure to provide a reasonable accommodation.

16. What inquiries, if any, may a housing provider make of current or potential residents regarding the existence of a disability when they have not asked for an accommodation?

Under the Fair Housing Act, it is usually unlawful for a housing provider to (1) ask if an applicant for a dwelling has a disability or if a person intending to reside in a dwelling or anyone associated with an applicant or resident has a disability, or (2) ask about the nature or severity of such persons' disabilities. Housing providers may, however, make the following inquiries, provided these inquiries are made of all applicants, including those with and without disabilities:

- An inquiry into an applicant's ability to meet the requirements of tenancy;

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- An inquiry to determine if an applicant is a current illegal abuser or addict of a controlled substance;

- An inquiry to determine if an applicant qualifies for a dwelling legally available only to persons with a disability or to persons with a particular type of disability; and

- An inquiry to determine if an applicant qualifies for housing that is legally available on a priority basis to persons with disabilities or to persons with a particular disability.

Example 1: A housing provider offers accessible units to persons with disabilities needing the features of these units on a priority basis. The provider may ask applicants if they have a disability and if, in light of their disability, they will benefit from the features of the units. However, the provider may not ask applicants if they have other types of physical or mental impairments. If the applicant's disability and the need for the accessible features are not readily apparent, the provider may request reliable information/documentation of the disability-related need for an accessible unit.

Example 2: A housing provider operates housing that is legally limited to persons with chronic mental illness. The provider may ask applicants for information needed to determine if they have a mental disability that would qualify them for the housing. However, in this circumstance, the provider may not ask applicants if they have other types of physical or mental impairments. If it is not readily apparent that an applicant has a chronic mental disability, the provider may request reliable information/documentation of the mental disability needed to qualify for the housing.

In some instances, a provider may also request certain information about an applicant's or a resident's disability if the applicant or resident requests a reasonable accommodation. See Questions 17 and 18 below.

17. What kinds of information, if any, may a housing provider request from a person with an obvious or known disability who is requesting a reasonable accommodation?

A provider is 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 provider, and if the need for the requested accommodation is also readily apparent or known, then the provider may not request any additional information about the requester's disability or the disability-related need for the accommodation.

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If the requester's disability is known or readily apparent to the provider, but the need for the accommodation is not readily apparent or known, the provider may request only information that is necessary to evaluate the disability-related need for the accommodation.

> **Example 1:** An applicant with an obvious mobility impairment who regularly uses a walker to move around asks her housing provider to assign her a parking space near the entrance to the building instead of a space located in another part of the parking lot. Since the physical disability (*i.e.*, difficulty walking) and the disability-related need for the requested accommodation are both readily apparent, the provider may not require the applicant to provide any additional information about her disability or the need for the requested accommodation.

> **Example 2:** A rental applicant who uses a wheelchair advises a housing provider that he wishes to keep an assistance dog in his unit even though the provider has a "no pets" policy. The applicant's disability is readily apparent but the need for an assistance animal is not obvious to the provider. The housing provider may ask the applicant to provide information about the disability-related need for the dog.

> **Example 3:** An applicant with an obvious vision impairment requests that the leasing agent provide assistance to her in filling out the rental application form as a reasonable accommodation because of her disability. The housing provider may not require the applicant to document the existence of her vision impairment.

18. If a disability is not obvious, what kinds of information may a housing provider request from the person with a disability in support of a requested accommodation?

A housing provider may not ordinarily inquire as to the nature and severity of an individual's disability (*see* Answer 16, above). However, in response to a request for a reasonable accommodation, a housing provider may request reliable disability-related information that (1) is necessary to verify that the person meets the Act's definition of disability (*i.e.*, has a physical or mental impairment that substantially limits one or more major life activities), (2) describes the needed accommodation, and (3) shows the relationship between the person's disability and the need for the requested accommodation. Depending on the individual's circumstances, information verifying that the person meets the Act's definition of disability can usually be provided by the individual himself or herself (*e.g.*, proof that an individual under 65 years of age receives Supplemental Security Income or Social Security Disability Insurance benefits[3] or a credible statement by the individual). A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may also provide verification

[3] Persons who meet the definition of disability for purposes of receiving Supplemental Security Income ("SSI") or Social Security Disability Insurance ("SSDI") benefits in most cases meet the definition of disability under the Fair Housing Act, although the converse may not be true. *See e.g.*, Cleveland v. Policy Management Systems Corp., 526 U.S. 795, 797 (1999)

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of a disability. In most cases, an individual's medical records or detailed information about the nature of a person's disability is not necessary for this inquiry.

Once a housing provider has established that a person meets the Act's definition of disability, the provider's request for documentation should seek only the information that is necessary to evaluate if the reasonable accommodation is needed because of a disability. Such information must be kept confidential and must not be shared with other persons unless they need the information to make or assess a decision to grant or deny a reasonable accommodation request or unless disclosure is required by law (*e.g.*, a court-issued subpoena requiring disclosure).

19. If a person believes she has been unlawfully denied a reasonable accommodation, what should that person do if she wishes to challenge that denial under the Act?

When a person with a disability believes that she has been subjected to a discriminatory housing practice, including a provider's wrongful denial of a request for reasonable accommodation, she may file a complaint with HUD within one year after the alleged denial or may file a lawsuit in federal district court within two years of the alleged denial. If a complaint is filed with HUD, HUD will investigate the complaint at no cost to the person with a disability.

There are several ways that a person may file a complaint with HUD:

- By placing a toll-free call to 1-800-669-9777 or TTY 1-800-927-9275;

- By completing the "on-line" complaint form available on the HUD internet site: http://www.hud.gov; or

- By mailing a completed complaint form or letter to:

  Office of Fair Housing and Equal Opportunity
  Department of Housing & Urban Development
  451 Seventh Street, S.W., Room 5204
  Washington, DC 20410-2000

(noting that SSDI provides benefits to a person with a disability so severe that she is unable to do her previous work and cannot engage in any other kind of substantial gainful work whereas a person pursuing an action for disability discrimination under the Americans with Disabilities Act may state a claim that "with a reasonable accommodation" she could perform the essential functions of the job).

Upon request, HUD will provide printed materials in alternate formats (large print, audio tapes, or Braille) and provide complainants with assistance in reading and completing forms.

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The Civil Rights Division of the Justice Department brings lawsuits in federal courts across the country to end discriminatory practices and to seek monetary and other relief for individuals whose rights under the Fair Housing Act have been violated. The Civil Rights Division initiates lawsuits when it has reason to believe that a person or entity is involved in a "pattern or practice" of discrimination or when there has been a denial of rights to a group of persons that raises an issue of general public importance. The Division also participates as *amicus curiae* in federal court cases that raise important legal questions involving the application and/or interpretation of the Act. To alert the Justice Department to matters involving a pattern or practice of discrimination, matters involving the denial of rights to groups of persons, or lawsuits raising issues that may be appropriate for *amicus* participation, contact:

U.S. Department of Justice
Civil Rights Division
Housing and Civil Enforcement Section – G St.
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

For more information on the types of housing discrimination cases handled by the Civil Rights Division, please refer to the Housing and Civil Enforcement Section's website at http://www.usdoj.gov/crt/housing/hcehome.html.

A HUD or Department of Justice decision not to proceed with a Fair Housing Act matter does not foreclose private plaintiffs from pursuing a private lawsuit. However, litigation can be an expensive, time-consuming, and uncertain process for all parties. HUD and the Department of Justice encourage parties to Fair Housing Act disputes to explore all reasonable alternatives to litigation, including alternative dispute resolution procedures, such as mediation. HUD attempts to conciliate all Fair Housing Act complaints. In addition, it is the Department of Justice's policy to offer prospective defendants the opportunity to engage in pre-suit settlement negotiations, except in the most unusual circumstances.

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Gamache - Is this the place here? I did not do speech at Daytona State, I missed that class. So, I hope that you can be patient with me. Even though I did teach and we do have curriculum that we make sales at conventions. My husband is the speaker. That's why the microphone here is here, he's a coach and he actually is supposed to be coaching our grandson's baseball game and he did come home but I said no, I had already talked to gentleman Forte. I told him I was going to be here myself and so that's why I'm here, my husbands at home, we were on the phone together. Before I speak and I want to thank y'all for hearing us.

Myer – Yes ma'am, will you tell us your name please?

Gamache - My name is Robin Lee Homes-Gamache and um again I wanna say thank ya'll and Hesed God kindness, blessings to you all, that is Hebrew for kindness God, and that is and you were praying gentleman Myer in very much appreciation about that and thank ya'll about ya'lls great and nice work here. Um Hesed is Hebrew for kindness god and that is in the power of the beauty holiness spirit and all the fullness of Christ Jesus the fullness of God is in Him that all sins are forgiven and we can live heaven on earth now. Where I live at 1703 Anniston Avenue, Holly Hill FL, Volusia County 32117, um that is my little heaven on earth. I'm a proverbs 31 woman, bringing that into the new testament, I'm also a Lydia woman, um I work along side my husband, with our business. And then I like to look at each of the women in the bible and and the men folk and structure my life in that way. That includes livestock, livestock is mentioned in scriptures um proverb 12:10, that you care about the life of your animals and it even goes so far to say that it is offensive to even eat meat in the new testament in Corinthians and in Romans um I have recently become vegetarian, but I wasn't always so and that's where I am at with that. Um to have our equine with us, we've had him since he was three and you're going to hear breathlessness in me on occasion, I was born this way, it did not become an emotional issue through COVID 19. The letter I'd like to present to you all from Dr. Neil Nipper of FLHC he does state emotional situations in this but the way our conversation went that day um the drive I had to take or drive to go to port orange to care for our animal. um I say animal but he's my pet he is a companion and we have had him since he was three he's eighteen and we've been to a bunch of boarding facilities um equine professional wrenT facilities in Volusia County and each place is unique, that word I have much appreciation about um almost to the point of being weird on occasion I was threatened with a shotgun at one my equine had oil on him that nobody made the request to do um he was left at the previous location where we rescued him and brought him in our back lawn, it's a double rescue I just want to make that on the record. This is a double rescue he was left in his indoors wrenT location on occasion for about 14-16 hours 12x12 um stall and I'd show up there and that wasn't what was supposed to happen. Along with the money situations they did not honor their contracts that we signed originally to go into the situation for 5 years. We had a whole bunch of agreements that they reneged on so its financial um physiological physical companionship pet adoption that's how I look at him. Along with my situation to drive an hour round trip and care for him um I was born a preemie I was born four pounds dropped to two, um I had to live in an incubator for I think a little more than a month and when you do that your lungs are underdeveloped. I think I was born at 6 months, and you grow up with a natural anxiousness, there is scientific I have looked it up I didn't bring it with me I didn't want to put too much out there for ya'll to have to think about but you are as an adult you grow because as an elementary child I had to go into the hospital live like a bubble child like that movie they had a long time ago. I had to live that way on occasion to develop my lungs. It causes me to have a natural anxiousness there is a whole bunch of scientific evidence even updated that says that a person who is like myself a bunch of us

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are out there we grow up with a natural anxiousness but it's a compassionate, empathetic, and very protective like I can sense things in an environment and not paranoia I used to work for the public defenders office I worked around criminals, I worked in the misdemeanor division, I worked in private attorneys as well offices, multi like real estate a bunch of experience with attorneys, estates, real estate, divorces, a whole bunch of things but the law office you learned to have an appreciation of empathy to try to help people get out of trouble even though we'd get phone calls in on rotation I was in misdemeanor, serial killers calling in, I was talking to gentleman Forte about that today and so I had to develop through God has given me a whole bunch of experience um with my breathing with legal procedures and how to make reasonable appeals, I used to type appeals for a living and that it very detailed work. Um to go on with the anxiousness that I'm born with to give me a very aware situations in my environment um in gives me empathy um it gives me a protective nature and it gives me this physiological breathless on occasion when I speak regular um then I developed uh I had COVID 19, um pneumonia, they almost put me in the hospital but we were very blessed to have Regeneron, and did that procedure helped me through it um however that physiological with my lungs is there. When I get in a car if I'm out and about too long I need to get home and I do have and I didn't bring the law says we don't have to give medical information um you know that's personal but I don't mind sharing with you that I was given an oxygen tank that I had to um not utilize and I did read about it later and there are people that cannot use it so id highly suggest that if anybody ever gives you an oxygen tank, I'm not a medical professional, make sure you talk with your doctor but I did look it up after and there are certain individuals that cannot use those. I felt like I was going to get addicted to the tank, somebody was talking about addiction I really and I had to put that away but he did give me those um breathalyzers whatever that is and I could breathe through that and that and a steroid medication and that helped that and helped get rid of the pneumonia um there's one other thing I wanted to say and its and I have to think about it. If I do think about it after can I, who directs this, if I think about this after may I interject that.

Myer – Yes ma'am, you may.

Gamache - Okay, thank you. So that is where I am with the physiological, I had to get home he was 30 minutes there 30 minutes home driving, I get anxious in the car because of my breathlessness and so I'm driving trying to get there and then doing the things I need to do and I see what's happening when I'm there and then so its really like I say it is a dual rescue, he is a companion for me, Dale now does the traveling for our um conventions, and because we sell our curriculum to home schoolers. We have a curriculum that we've developed on DVD um and very blessed to do this um for 22 near um 22 plus years so we do this from home so I can work at home have my uh equine companion specific with me there and I know he's safe and I know I'm safe and I'm not on the road and I can do the things that I need to do. Gentleman Forte has a very good question about him being an equine and me being around that environment I wanna do that anyway we made the adoption, I call it an adoption because that's the way I look at him, that's the way I've looked at my dogs and we rescued a bunch in our Holly Hill neighborhood, for whatever reason they like showing up at our house. And one of them had a chip so we were able to locate them. But, there's a lady in the neighborhood that we used to do that, so I'm very empathic about those kinds of things. Um its good to have him there, I see he's safe, I'm safe, and I get to be home and work from our house. Um I have a letter from the doctor that if ya'll would like to look at this I didn't make multiple copies I was going to do that and I thought..

Simpson – Is that the one that's in the agenda?

Forte – It is.

Simpson – Yea, it is, I think everyone has a copy of that.

Gamache - Okay, and I also have from the Florida um I did look up and I did give him information from a synopsis writer uh journalist uh about the law and then there is a law firm in West Palm Pembroke area that um has the specifics on the law and Florida and I have that how to look at the law again as my husband was telling me the law does say there was a question about whether I needed to go to an emotional counselor this isn't an emotional issue this is a physiological um I did have to go into those plastic bubble tents growing up and so that's where I'm at with this again. I've had to have the medication I don't have to, at this moment, oh I have to say this this is a very cool thing um I was a 200 and I'm 5'3 a little under 5'3 um I had gained over 200 pounds and I didn't go on the scale so I really didn't know how much I weighed until I went in for COVID, and I topped the scale over 205 pounds I had never weighed that in my life even when I was pregnant with my daughter I never got that high in my weight. My blood pressure was off the charts, um not literally, thank God. But, it was very high and I was able to, since Rock's been here I was able to after, before Rock got here I began to exercise and do all those things and I was doing that before COVID, and then COVID happened that and all that, and then I got the flu after and throwing up like 30 days after COVID. So, I was sick for like three months and then trying to get to Rock and just it was just a bunch of pressure all at once. So, I recouped from that and went to see the doctor and he said you really need to ya know he asked me um about counseling and I said I read books and I have Christian books on counseling but I do it for the encouragement, because I'm an encourager. That's one of my gifts, one of my spiritual gifts, and so I um was reading that book on menopause um and women of the bible, and the bible of course, and regular information that anybody should have especially in this situation. And more of course, and I thank God for that and the ability to do it um I lost 20 pounds within 30 days before Rock got there and now I'm at 30 pounds so he has helped me um I am getting in very good shape I have a machine or a thing, I have a recumbent cycle that I don't have to pedal you just push it so I do that and then I'm outside with him and I clean poop so if anyone has a question about poop I put it in industrial bags and I clean about maybe seven times a day and I am I was trained living as a child in North Carolina I knew equines there as a young girl and then moving to Florida I used to trail ride out near where Walmart Supercenter is they used to have ya know all that wasn't out there. Oh and the thing about equines in Holly Hill, when I moved on 1703 Anniston Avenue where I am now we built our house in 1983, we were the only residents there, when I moved in Doc the vet on Mason avenue, what's his name Langford or whatever that vets name is there, he had equines on the land that's now a huge retention pond. And there's condominiums there and there also at bishops dairy, there used to be an equine there because I used to bring my daughter in a wagon and we go visit that equine. So there were equines, I could sit on my front porch and look at the equines in between the duplexes that the doc, the vet, he's on Mason avenue.

Myer – That was Dr. Langford.

Gamache - Dr. Langford, yeah he's an acquaintance of my husband and we're actually hoping he's going to be our vet and hes given us things for Rock so he knows my husband so he has given us supplies for him. So I have a support system if anybody has a question about that I have a support system for him um and in Florida trail ride out there and then Rock and our family we're on trail we traveled the country with him actually and settled back in Florida, programs and the people we bought him from

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that's what they wanted to do um but he never was a show she called it trail and she was teaching him to do that but that's what I learned in Ormond and um so I know how to care for him I've been around it all my life and we've had him since 2007 and he was three at time and he's eighteen now um he had to have surgery almost right after we bought him so he's no trouble as far as running around or making a lot of loud noises like ya know barker dogs can do. We used to we had a rescue dog of a hound and that dog howled and howled and howled and howled and they said that they do that, it wasn't mine, I didn't purchase him, it was a rescue but they found him a nice home for him to be outside. So, he doesn't make loud noises, um he talks, he does the Winnie, and I do sounds to him that you know the communication that we have and it's a thing that we've learned, um you know through these years of our being companionships alongside each other. And um it is a, you do have a bond, dogs have that characteristic of loyalty um he is no dog but he is loyal. And he is gentle, he's very tall, he's 1350 pounds but the size that we have and how I've learned to care for equines over the years um I know how to do that and make the place in a way and I thank God for that that he's comfortable and he's fine. If I think I need to purchase more land I wanna tell ya'll that I'm open to that. I don't know what the proceedings cause I know I think there's more days after this, I think more meetings. So I'm open to suggestions, but he is behaving he is safe, and I'm safe, and I've learned how to be safe around equines, it does take a skill. I mean, ya know anything can happen, they're huge. And I'm talking about between me and him, we have double fencing, double gates, I have like 5 gates and if ya'll need to send a person out there, I'd like notification beforehand to make an appointment, but if you'd like to see ya know how the situation looks, safety-wise, cleanliness -wise, um the processes that I go through each day, there is a system to it, and its very logical, its very reasonable, and I'd be willing to whoever would need to do that um ya know that'd be fine, you'd have an open invitation. But, once, I don't wanna keep a process going I'd like a decision and a person to come and look and see what they think before anybody whether its at this meeting or another meeting makes a final decision however that system works. You do have an open invitation specific to do that. To be our guest, and um you have the letter, I do have these things here, the health benefits of having a companion I explained that my personal situation that I'm so happy about. Um its helping me very much. Um oh and I would like to say if you do come, no photography, I have two neighbors one to the north of me and one to the south of me that have taken pictures of our property or have had people on their property taking pictures I'm not real sure how the situation was. I was told that one of the photographs that one of the photographs came up on screen so I don't know if that person took a picture or if they had a person take the picture, if there was an invitation to do it or I don't know how that was, I don't think its legal. But im ya know researching it and looking so if you do come no photography because I don't think its necessary. Um which reminds me if you do come, our neighbor to the north, actually lives between me and Mayor Via, Mayor Via lives one house north, there's a house in between us and that neighbor has for whatever reason like within two days recent has put skull heads up on two sticks that are facing our direction and I have no idea why, but I mean we all need bones right, but its unusual so I just wanna let you know that. And the thing is I don't know if anyone has a suggestion but maybe after the fact he was videoing and taping us I did see him doing that with his phone um and I don't know if anyone can put cameras. I know people have attraction to that kind of thing, I don't know if anyone can give me advice after the fact if there's a way we can go into that without causing a scene, because I'm not that kind of neighbor. I don't want to be that way. I don't want to be in anyone's personal business and I don't want them to be in mine. So, if anybody has a suggestion about that. I appreciate that very much. And I have these from the attorney in West Palm…

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Simpson – Is that the same stuff you already..

Gamache – These are new, these are from an attorney in West Palm, that lady was a journalist.

Simpson – Okay, I know there's some information you previously provided that's in the agenda.

Gamache – Would you like these?

Forte – If its information we don't have, yes we will need them.

Gamache – Yes, it is. Who would I give this too?

Deligianis – You can give them to me.

Gamache – Thank ya'll, you have a very nice day.

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1) High ammonia fumes in the stable are detrimental to good respiratory health in horses. The fumes irritate the respiratory airways and can trigger any number of inflammatory events, including heaves (also known as recurrent airway obstruction). Irritated airways are also more susceptible to viral and bacterial invasion.

The Ammonia smell in the stable: Is it a health threat? Or an innocent | Haygain USA

***For reference, if the human nose can detect ammonia fumes, then the concentration of ammonia in the a is at least 5 ppm (parts per million).

TABLE 2-1 Summary of AEGL Values for Ammonia

Classification	10 min	30 min	1 h	4 h	8 h	End Point (Reference)
AEGL-1 (nondisabling)	30 ppm (21 mg/m^3)	30 ppm (21 mg/m^3)	30 ppm (21 mg/m^3)	30 ppm (21 mg/m3)	30 ppm (21 mg/m3)	Mild irritation (MacEwen et al. 1970)
AEGL-2 (disabling)	220 ppm (154 mg/m^3)	220 ppm (154 mg/m^3)	160 ppm (112 mg/m^3)	110 ppm (77 mg/m3	110 ppm (77 mg/m3)	Irritation: eyes and throat; urge to cough (Verberk 1977)
AEGL-3 (lethal)	2,700 ppm (1,888 mg/m^3)	1,600 ppm (1,119 mg/m^3)	1,100 ppm (769 mg/m^3)	550 ppm (385 mg/m3)	390 ppm (273 mg/m3)	Lethality (Kapeghian et al. 1982; MacEwe and Vernot 1972)

Ammonia fumes in the stable a significant health issue, for us and for our horses?

What is ammonia?

AEGL-1

Ammonia (NH3) is a caustic gas. Caustic means strongly alkaline (the opposite of strongly acidic). Lye is another example of a caustic substance.

Ammonia is well recognized, in scientific and government institutions and publications, as sufficiently alkali to be a “strong irritant,” even in small doses and at relatively low concentrations. Most often, ammonia irrita vulnerable tissues such as skin, eyes, nasal passages, sinuses, the respiratory tree and the lungs. The effe can range from short-lived reversible discomfort, to serious health effects that are chronic, irreversible, and sometimes even life-threatening.

If you’re thinking this is an issue that’s hazardous only for workers in jobs involving industrial exposure to ammonia, you’re wrong, but you’re in good company. What makes the health risks even more serious is th fact that because of emotional context and olfactory fatigue, our self-protective response to ammonia exposure in the stable is impaired. If we’re better informed about this noxious gas, we can stop underestimating not only its inherent dangers, but also the impact we can have on significantly reducing ammonia in the stable.

How much ammonia is too much? The standard reference that sets the safety limits for exposure to noxiou gases, including ammonia, is the Acute Exposure Guideline Level, or AEGL. There are three AEGL levels exposure, each divided into five exposure periods: 10 min, 30 min, one hour, four hours, and eight hours. T stronger the ammonia, the shorter the exposure time that can cause irreversible injury.

To set the stage for you, I measured ammonia levels over a six-year period during my tenure as stud farm veterinarian at high-end facilities. All stalls were cleaned at least once daily. Some barns had huge fans beneath the ridgeline of the roof, designed to pull stale air upward and out while pulling fresh air in through the double doors at the ends of each aisle.

Attachment: Ammonia Fumes in Horse Stall areas (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

Some barns lacked whole-barn ventilation systems but had box fans bungee-corded to the bars of th fronts, some aiming directly across to the back wall of the stall, some facing the aisle, ostensibly pulling air out from the stall. Some barns had both whole-barn ventilation and individual stall fans. All stalls had solid fronts from ground level to four or five feet up; the upper portion was open, with or without bars. Some stalls had attached walk-in runs, some did not. Some had windows on the back wall; others did not.
The results are as follows:
In all facilities, ammonia levels inside the stalls ranged from 80 to 450 ppm (parts per million) when measur within 12 inches of the stall floor. Neither the whole-barn ventilation fans, nor the box fans attached to the s fronts, had a significant effect on ammonia levels in that low-down 12-inch zone.

At five feet up from the ground (roughly in range of the average human nose), ammonia levels in the stalls varied from 10 to 50 ppm within ten minutes of turning off the box fans (if the stalls were so equipped). In th aisles of the barns, ammonia levels were 0 when ridgeline fans were running, and up to 15 ppm when ridgeline fans were turned off. Individual stall box fans had no significant effect on ammonia levels in the aisles or inside the stalls at floor level.

In summary: Up to 450 ppm at floor level in the stalls, affecting mostly the horses; 10 to 50 ppm at nose lev in the stalls, affecting mostly the horses; and 0 to 15 ppm in the aisles, affecting mostly the humans. Let's s where those figures sit in the AEGL system.
AEGL-1 is considered the mildest level of ammonia exposure, at 30 ppm or less, and is generally conside "non-disabling" even at eight hours of exposure, expected to cause no more than mild and temporary irritation of the eyes, nose and/or throat . It's also considered non-disabling even if you and/or your horse already have other relevant health issues such as dry eye, eye irritation, eye injury or infection, respiratory skin allergies, asthma, bronchitis, heaves, or airway hypersensitivity. So, the measurements taken in the hi end stables were consistently well below AEGL-1 only in the aisles.
***Based on data from the workplace, the US Occupational Safety and Health Administration (OSHA) dicta that employers cannot allow workers to be exposed to more than a total of two hours' exposure to 50 ppm (parts per million) ammonia fumes in any 24-hour period. In one study, after only 10 minutes' exposure to 5 ppm, human volunteers described the fumes as deeply penetrating, and experienced moderate eye, nose, throat, and chest irritation. At 80 ppm for 30 minutes to two hours, the irritation was described as moderatel to highly intense. At 110 ppm for 30 minutes to two hours, it was highly intense. At 140 ppm for 30 minutes two hours, it was "unbearable." At 500 ppm for 30 minutes, most subjects had tears running from their eyes
AEGL-2
AEGL-2 exposure to ammonia is 220 ppm for 10 to 30 minutes, 160 ppm for one hour, or 110 ppm for four eight hours. Human volunteers found the irritation of their eyes and throat at 110 ppm to be "offensive," and many left the chamber at the higher levels of exposure. You, and your horse, exposed to ammonia fumes a these levels, can experience significant irritation of eyes and throat, and an increased urge to cough. You, and your horse, also are at risk for the health consequences of exposure to be irreversible, including the possibility that athletic ability and exercise tolerance will decline. If you, or your horse, have a pre-existing condition (including such things as dry eye, eye irritation, eye injury, eye infection, respiratory or skin allergi asthma, bronchitis, heaves, or airway hypersensitivity), you can expect this level of exposure to make the condition you already have, worse.
AEGL-3
AEGL-3 ammonia exposure is considered potentially lethal. It ranges from a high of 2,700 ppm for 10 minu (which is associated with working in industrial chemical facilities and exposure to accidental chemical spills to a low of 390 ppm for eight hours (which is very possible in a horse stall). Remember, at floor level in mar of the stalls in my veterinary rounds, measurements of ammonia levels were at 450 ppm. And, many horse spend far longer than eight hours in their stall in any 24-hour period, meaning they easily meet the criteria f AEGL-3 conditions and are at real risk. It's worth pointing out that this level of exposure in a stable is not necessarily a take-five-steps-and-die kind of lethality.
It's more likely to cause health effects that can destroy an athlete's future, cause a trail horse to cough at th slightest exertion and need rest stops to catch his breath, impair even a retired horse's quality of life, and le many owners to consider having their horse euthanized for humane and/or practical reasons (the horse no longer serves their purposes). That's the kind of lethality that applies most typically in the horse stall: less

Attachment: Ammonia Fumes in Horse Stall areas (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

dramatic than what can happen in chemical spills, but heart wrenching and tragic nonetheless, partic since it can be prevented (more on that in a moment).

A horse's age is also possibly a factor. In studies with human volunteers, high AEGL-2 and low AEGL-3 exposure levels triggered a protective closing of the throat —a choking-down reflex that compelled the participants to stop the trial. In aged volunteers, however, that protective reflex was as much as three times slower to happen, compared to younger volunteers. If this protective reflex is similarly handicapped in aged horses, it means that even if our senior horses have the freedom to leave the stable and get some fresh air they're less likely to feel physically compelled to do so. Instead, they might stay in that toxic environment, inhaling that toxic air, incurring further damage with every breath.

What you need to know about ammonia in the stable

1: Ammonia levels in the stable are higher, and a more serious health risk for ourselves and our horses, tha most people think .

2: Most assessments of air quality in stables are made subjectively, by olfactory-fatigued noses of humans, standing upright in the stalls and in the aisles. Assessments are rarely done objectively, with instruments designed to measure ammonia, not only at standing human nose level but in all relevant areas of the barn, especially at floor level in the stalls.

3: Much of the air a stabled horse draws into his lungs is within that low-down floor-level range where ammonia levels are highest

— when he's standing and nibbling at feed that was placed on, or has fallen to, the floor, and when he's lyi down and sleeping (when he's breathing most deeply, really pulling those fumes in). Because foals sleep s much, a foal in that stall would breathe high levels of ammonia many times more than fresher air.

4: Most stable managers are aware that ammonia is unpleasant, and they take steps to address it. Nevertheless, ammonia levels easily can be high enough, even in well-heeled stables, to pose a health risk The methods most often employed to reduce ammonia levels include:moving the fumes, with ventilation, improving hygiene through more frequent stall cleaning, and applying agents such as lime and zeolite products to the wet spots in stalls, to absorb and "neutralize" the ammonia.

There is nothing wrong with these methods, but it's clear that they are not enough. They treat the symptom not the underlying problem, and as a result, only the air in the aisles of the facilities where I worked could reasonably be called fresh. Nice for the humans, not so nice for the horses.

The underlying problem

To get at the source of the fumes, we need to understand where the ammonia in the stable comes from. It's not, technically, from urine.

Ammonia is not a normal component of urine. Urine contains urea, which is a byproduct of the digestion an metabolism of protein in the horse's diet. But urea is odorless.

So where does the ammonia come from?

From the breakdown of urea, which is done by various bacteria that happen to love urea as a food source. it's available to them, they'll flourish on it. They're equipped with an enzyme called urease which digests the urea and produces ammonia as a by-product. But healthy urine is sterile. It doesn't have bacteria in it.

So where do those urea-digesting, ammonia-belching bacteria come from?

They're abundant in many substrates on the ground. If urea is regularly available to them, their originally sr population there will explode, and the level of ammonia in the stable will intensify exponentially with every new "delivery" of urea-rich food (your horse's urine). The situation quickly escalates to the point at which stripping the stall and leaving it empty for a few days to dry does nothing to dampen the ammonia smell. There's so much stockpiled urine already soaked deeply into the substrate that the bacteria can live on its urea for a long time, while the ammonia continues to stream up and into the stall.

So let me ask you some questions about your horse's stall.

What kind of bedding do you use?

Is it hay, straw, coir, shredded paper, wood shavings, sawdust, peanut hulls, compost...?

What's under the bedding? Is it soil, clay, sand, gravel, porous concrete, rubber mats….?

Do you know what's the typical volume of urine a horse expels with a single urination? (Depending on your horse, it can be as little as half a gallon or more than a gallon.)

How many times does your horse urinate in the stall in a 24-hour period? (How many wet spots are there ir the bedding?) Add it up. How much urine, total, per 24 hours? Is there any stall bedding that can absorb even

Attachment: Ammonia Fumes in Horse Stall areas (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

half a gallon of urine when it gushes out of your horse all at once, all in one place? I have yet to mee bedding.

So… when you remove the wet bedding, have you removed all the urine? Or did much of it spill through? Is the floor beneath the bedding porous, even a little? If you have stall mats, could the urine sneak into the ga between them, and soak into whatever is underneath them?

Do you see the problem?

When urine soaks into the floor beneath the stall bedding, whether that floor is soil, sand, gravel, porous concrete, etc., or the nooks and crannies between the rubber mats laid on top of those substrates, it encounters bacteria. Many of the bacterial species there are urease-equipped, ready and waiting for a load urea-rich urine to fuel their next population explosion and the ammonia exhaust it inevitably produces. For those bacteria, the mother lode is the urine that got away from the bedding. And because of the volume of urine a horse produces, there is no such thing as a bedding material that can catch it all. In fact, most of the urine runs right through even the most absorbent bedding, into whatever is beneath it. Bedding is important for comfort, and cushion, and hoof support, and to prevent slipping, but it's ill equipped to catch and hold al but just a fraction of the urine your horse produces.

A major key to controlling the levels of ammonia in a stable is understanding the fact that microbial action creates ammonia fumes.

Addressing ammonia at its source In the construction of stables, the tradition is to provide "good drainage" the stalls. Now, we know better. Good drainage is important to keep the barn from flooding in heavy rains, I for the stalls themselves, it's important to stem the tide of ammonia fumes by making the floor non-porous. That way, you can contain the urine. This gives the bedding more chances to absorb it, so that when you muck out the wet bedding you can remove all the urine and starve subterranean populations of bacteria tha have been thriving on its steady supply of urea.

Please don't underestimate the potential health risks of ammonia exposure. What's underneath the bedding your horse's stall may be out of sight, but keep it on your mind, because it is an important way to make real measurable improvement in the quality of air he breathes if he spends even part of his days in a stall. The right floor can be the key to a healthier and more comfortable horse, and a healthier and happier you.

The bottom line: The highest levels of ammonia fumes measured in well-heeled horse facilities in my study were found inside individual occupied stalls, within 12 inches of the stall floor. Because most facilities' ammonia problems are gauged subjectively, by human noses at standing level, the ammonia problem afflicting horses' health is largely underestimated, if not overlooked.

Because ammonia fumes are a major fly attractant, reducing ammonia production on the facility can reduce fly pest populations on the facility.In short, please don't underestimate the potential health risks of ammonia exposure. What's underneath the bedding in your horse's stall may be out of sight, but keep it on your mind because it is an important way to make real, measurable improvement in the quality of air he breathes if he spends even part of his days in a stall. The right floor can be the key to a healthier and more comfortable horse, and a healthier and happier you.

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Horses produce a large amount of ammonia each day, which can be hazardous to animals and their caretakers.

Researchers Lydotes and Uricchio of the University of Massachusetts carried out a study which looked at different types commonly used bedding materials used in the Northeast United States and evaluated the levels of ammonia exposure v each material.

The Study

With current equine management practices, humans and horses are potentially exposed to hazardous levels of ammoni on a daily basis.

The Occupational Safety and Health Administration (USA) has declared over 50 ppm of ammonia unsafe for workers.

Most domesticated horses are stalled indoors which creates a large ammonia build up. The average 1,000-pound horse produces 50 pounds of waste and 2.4 gallons of urine every day. The type of bedding within the stall can contribute to th ammonia levels both horse and human are exposed to, leading to increased health risk.

This study investigated the difference in ammonia exposure over a 16-hour time period using four different types of popu equine beddings: coarse wood shavings, sawdust, wood pellets, and straw. Ammonia exposure for horse and human wa tracked using ChromAir Ammonia Badges, which measure ammonia levels in the air (exposure range 4 - 300 ppm/hr) fo up to 16 hours. It was hypothesized that the most absorbent bedding types (wood pellets) would have lower ammonia exposure ranges than less absorbent bedding types (straw). The absorption rate and ammonia exposure of the four bedding types was investigated in a controlled laboratory setting.

The ChromAir Ammonia Badge was braided into the horse's mane and ammonia exposure was recorded at 1, 2, 3, and hours. Human ammonia exposure was also recorded for the duration of stall cleaning (average exposure time of 15 minutes). This was repeated for each of the four types of bedding.

The Findings

A correlation was found between different types of bedding, absorption rates, and level of ammonia gas exposure. The bedding types with the highest absorption (wood pellets, coarse shavings) had the lowest ammonia readings of 4ppm/hr The bedding type with the lowest absorption (straw) had the highest ammonia readings of 8-20ppm/hr. In addition, straw was the only bedding type with a measurable human ammonia exposure reading during stall cleaning.

Conclusion

The results of this study will help decrease ammonia exposure and in turn decrease the incidence of respiratory disease in both horses and humans.

Wood pellets were found to be the most absorptive bedding type and had the lowest level of ammonia exposure. Straw was found to be the least absorptive bedding type and had the highest level of ammonia exposure.

Selecting a bedding that reduces ammonia exposure can lead to improved animal welfare and respiratory health.

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Manure Quantity and Composition

A 1000-pound horse will defecate from 4 to 13 times each day and produce 35 to 50 pounds of wet manure (feces plus urine) daily, or approximately 9.1 tons per year. Typically a ton of horse manure will contain 11 pounds of N, 2 pounds of P, and 8 pounds of potassium (K). To obtain more accurate numbers, manure should be tested for nutrient content. Check Rutgers Cooperative Extension fact sheet, FS935, Feed and Forage Testing Labs for more information.

A horse kept in a stall will require about 10 to 20 pounds of bedding per day. This bedding should be replac on a regular basis. Because of many types of bedding materials, wood byproduct (shavings, chips, sawdus straw, or paper, the composition of the mix of manure and bedding will vary from farm to farm. In general, manure plus bedding will have a volume of between 2 and 3 cubic feet per horse per day.

Environmental Impacts and Benefits

Environmental Benefits: When managed properly, manure can be a valuable resource on a farm. Manure c be a source of nutrients for crop production and can improve soil quality. The organic matter present in manure can improve both tilth and water holding capacity of the soil. Manure can also be used as a fertilize (N and P) for crops. However, most horse owners do not have enough land to use the amount of manure th is produced. Monitoring horse manure so that it does not cause environmental impacts is the goal of manu management.

Nutrients: When not managed properly, horse manure (feces and urine) can pollute the environment, mainl as ground or surface water pollution due to the nutrients nitrogen, phosphorus, and carbon (organic matter) These nutrients can reach waterways as surface runoff or leachate from the manure pile.

Nitrogen excreted from horses is usually present either as urea in urine, which is quickly converted to ammonia (NH_3), or it remains in association with organic matter in the feces. Ammonia (NH_3) can be volatilized into the atmosphere. If NH_3 from horse manure comes into contact with surface waters, it can cause nutrient enrichment and excessive algae growth. This process is referred to as eutrophication. Eutrophication is the process of nutrient enrichment in a lake or slow-moving stream occurring when exces nutrients from manure, fertilization, sewage, etc. are deposited. This can result in waters rich in mineral and organic nutrients that promote a proliferation of plant life, especially algae, which reduces the dissolved oxygen content and often causes the extinction of other organisms. (Adapted from Concise Columbia Electronic Encyclopedia, 1999 & American Heritage Dic. of the English Language, 4th ed.) In the case of nitrogen, the excessive algae and conversion of ammonia to nitrate (NO_3) causes a reduction in dissolved oxygen in the water, which can contribute to fish kills through oxygen depletion.

Nitrogen present in organic matter in the feces will be converted in the soil to ammonia and then nitrate, wh can be taken up by plants. If plants do not take up nitrate it will easily move through the soil and can eventually leach into the groundwater where it can be a human health concern. Nitrate can also undergo th process of denitrification in the soil and be lost into the atmosphere as gaseous nitrogen (NO, N_2O, or N_2).

Phosphorus is also present in manure. When spread on the land it will not leach like nitrogen, unless the so matrix where phosphorus binds becomes overly saturated with phosphorus. However, phosphorus will run if applied at the wrong time of the year and/or when soil erosion occurs. This can lead to contamination of surface waters where it may cause eutrophication.

When manure is not properly incorporated into the soil, organic matter present in manure (contains carbon, nitrogen and phosphorus) can be a concern when it runs off into surface waters. Eutrophication and additio oxygen depletion may occur due to the decomposition of the organic matter.

Pathogens and Vermin: In addition to the above concerns, pathogens may be present in manure. Some of these are, E. Co Salmonella, and Cryptosporidium parvum, however the frequency of Salmonella and Cryptosporidium parvum are low in horse feces and there have been no known outbreaks of E. coli infections in humans attributed to horses. Internal parasite infestations in horses may also result from horse manure. Flies, dust, rodents, and odors may also be manure related conce on horse farms. These problems can be minimized by proper design of housing and manure storage areas and care when turning or moving manure piles

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Horse Manure Management

Manure should be removed from stalls or exercise lots on a regular basis. There should be a plan for manu removal. Manure disposal options include removal from the farm by haulers, direct land application, or composting with on-farm or off-farm use of compost.

Location and size of manure storage sites are important. Manure storage piles should be kept in a dry area not affected by flooding or storm runoff from other structures or pastures. Do not store manure on a stream bank, near a wetland, or in an area that is close to the water table. Store on level ground if possible. Long-term storage structures, such as composting or stack storage, should have adequate space. The storage structure should have a firm base and be covered to prevent runoff or leaching (tarp or roof). Appropriate conservation practices (buffers, filter strips, etc.) should be implemented to reduce surface loss of manure nutrients if the storage area is not covered.

When spreading, manure should be harrowed or otherwise incorporated into the soil. Since nutrient losses from spreading manure should be avoided, manure should be applied based on a soil test and crop or pasture grass nutrient needs. It is important to remember that not all nutrients in manure are immediately available to the present crop. Therefore, previous manure applications must also be considered when applying manure to crops.

Spread only when the crops need nutrients. Avoid spreading on frozen ground or near waterways. Remem that horse manure may contain internal parasites. It is important not to spread horse manure on pastures where horses could become re-exposed to parasites, unless there is a good de-worming program.

Composting of horse manure, when done properly, will result in the destruction of internal parasites. The composted product can then be spread on pastures. Composting is managed, accelerated decomposition o organic materials. Microorganisms, including bacteria, actinomycetes, and fungi, break down the organic materials at elevated temperatures. It requires proper levels of moisture and air and the appropriate feedsto mixture to ensure proper decomposition. Turning the composting material helps to ensure that all parts of th manure are at elevated temperatures for certain time periods. The final product will be freer of odors than horse manure and may have value as a soil amendment or fertilizer. The composting process will also redu the total volume of manure for disposal. Siting issues need to be addressed and are similar as discussed under manure storage.

Regulatory Compliance Assistance

Horse farms that pollute or discharge waste into New Jersey waters (regardless of the size of farm) are regulated as Concentrated Animal Feeding Operations by the New Jersey Department of Environmental Proection (NJDEP). To assist New Jersey horse farmers, the state Department of Agriculture is developing assessment process to help farmers manage their own manure without polluting. Rutgers Cooperative Extension and the USDA Natural Resources Conservation Service are available to help develop plans for managing horse manure.

Conclusion

Horse owners need to be aware of how their horses' manure is managed. Nutrient inputs, outputs, cycles, and losses all occur on a farm. Recycling of nutrients should be encouraged, and losses that contaminate surface or ground water should be eliminated. Horse owners should remember that nutrients have value no only for feeding horses, but also as manure that can have value for the whole farm. It is the horse farmer's responsibility as a land steward to keep that cycle in balance.

Additional information

For more information about horse manure management, please contact Rutgers Cooperative Extension. M fact sheets about the management of horse manure are in production. These will address the regulatory control of horse manure management, the composition of manure, composting, horse manure managemen and nutrient management. The publication by Wheeler and Zajaczkowski (2002) is an excellent overview o horse manure management.

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It's so hot that horse manure spontaneously caught fire in upstate New York - The Washington Post

Horse manure, especially when sawdust or hay gets mixed in, is an energy-rich fuel, on par with wood chip for carbon and oxygen content. It's "well suited for combustion,"
The owners of the stables told Don Damrath, an officer for the New York DEC, that the poop heaps "ignite frequently." Usually, the wind blows the smoke and smell away from the area population. It was different thi month. "This time, the winds were carrying the smoke into neighbors' windows, and the flames spread dangerously close to a valley full of dry vegetation and dead trees," according to the DEC's statement. For two hours, local firefighters from three different departments battled the flames before the fire was put out.

Managing and composting horse manure (umn.edu)

Production and characteristics

The average 1,000-pound horse eats about 2 percent of its body weight and drinks 10 to 12 gallons o water daily. This will vary with individual metabolism, activity level, and the weather.

On average, that same 1,000-pound horse will pass 55 pounds of manure (feces and urine combined) each day. This adds up to more than 10 tons each year.

Of that 55 pounds of fresh manure excreted daily, there is roughly 0.2 pounds of nitrogen, 0.05 pound of phosphorus, and 0.12 pounds of potassium (K). These are just averages, though, and depend on your horse's activity levels and feed. Plus, bedding may influence the nutrients in the manure, as well is always a good idea to regularly test your manure so that you know what you are working with.

Core Equine Vaccines - Horse Illustrated

Protecting Against Serious Disease

The American Veterinary Medical Association (AVMA) defines equine core vaccinations as those "that prot from diseases that are endemic to a region, those with potential public health significance, required by law, virulent/highly infectious, and/or those posing a risk of severe disease."

In light of that definition, the American Association of Equine Practitioners (AAEP) notes that the following equine vaccines meet those criteria and are identified as "core" in their vaccination guidelines. The five equ core vaccines include:

1) Eastern equine encephalomyelitis (EEE) Eastern Equine Encephalomyelitis (EEE) – A mosquito-bo disease that can kill 75 to 90 percent of affected horses. Horses should be vaccinated annually. Consider semi-annual vaccination for horses in endemic areas or with compromised immune systen
2) Western equine encephalomyelitis (WEE) Western Equine Encephalomyelitis (WEE) – Another potentially fatal, mosquito-borne disease found primarily west of the Mississippi River. Horses shoul be vaccinated annually. Consider semi-annual vaccination for horses in endemic areas or with compromised immune systems.
3) Rabies An invariably fatal neurological disease caused by the bite of infected animal. All horses should be vaccinated annually.
4) West Nile virus **–** A widespread mosquito-borne, neurological disease that can kill approximately one three clinically affected horses. Horses should be vaccinated annually prior to the onset of the mosquito season. Consider semi-annual vaccination for horses in endemic areas, horses older than years, and horses with compromised immune systems
5) TetanusTetanus – An often-fatal disease caused by the bacterium Clostridium tetani which is found soil and feces. All horses should be vaccinated annually.

AAEP recommendations are for all horses—regardless of where they live, their age or use—to be vaccinat against these five diseases every year. These are not diseases you want to gamble with.

(1) **WEE** is fatal in 50 percent of cases, while (2) **EEE** has a 90 percent fatality rate; both are transmitted mosquitoes. **(4)** West Nile virus, which is transmitted by mosquitoes that feed on infected birds, is abo 33 percent fatal, but 40 percent of horses that survive the acute disease are left with permanent neurologic effects. (3) **Rabies** isn't common in horses, but it is 100 percent fatal, and puts at risk the humans who have handled the horse.

"These are endemic diseases with high mortality rates—diseases that every horse should be vaccinated fo every spring, no matter how old the horse, what he does, or where he lives," says Jacquelin Boggs, DVM, ACVIM, an internal medicine specialist and senior technical service veterinarian with Zoetis.

"These diseases also tend to be ones that are the more difficult to mitigate [in terms of] risk of exposure to disease-carrying vectors," says John H. Tuttle, DVM, director of equine professional services at Boehringer Ingelheim Animal Health.

Tuttle refers to the various ways these core diseases are spread, including mosquitoes, bacteria in soil, rab animals, et cetera. You can be the most careful horse owner in the world, but you can't guarantee your hor won't come in contact with one of these vectors that could introduce a potentially life-threatening disease.

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Manure and Pasture Management for Recreational Horse Owners

Thomas D. Wegner
Thomas R. Halbach

Attachment: manure-and-pasture-management (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

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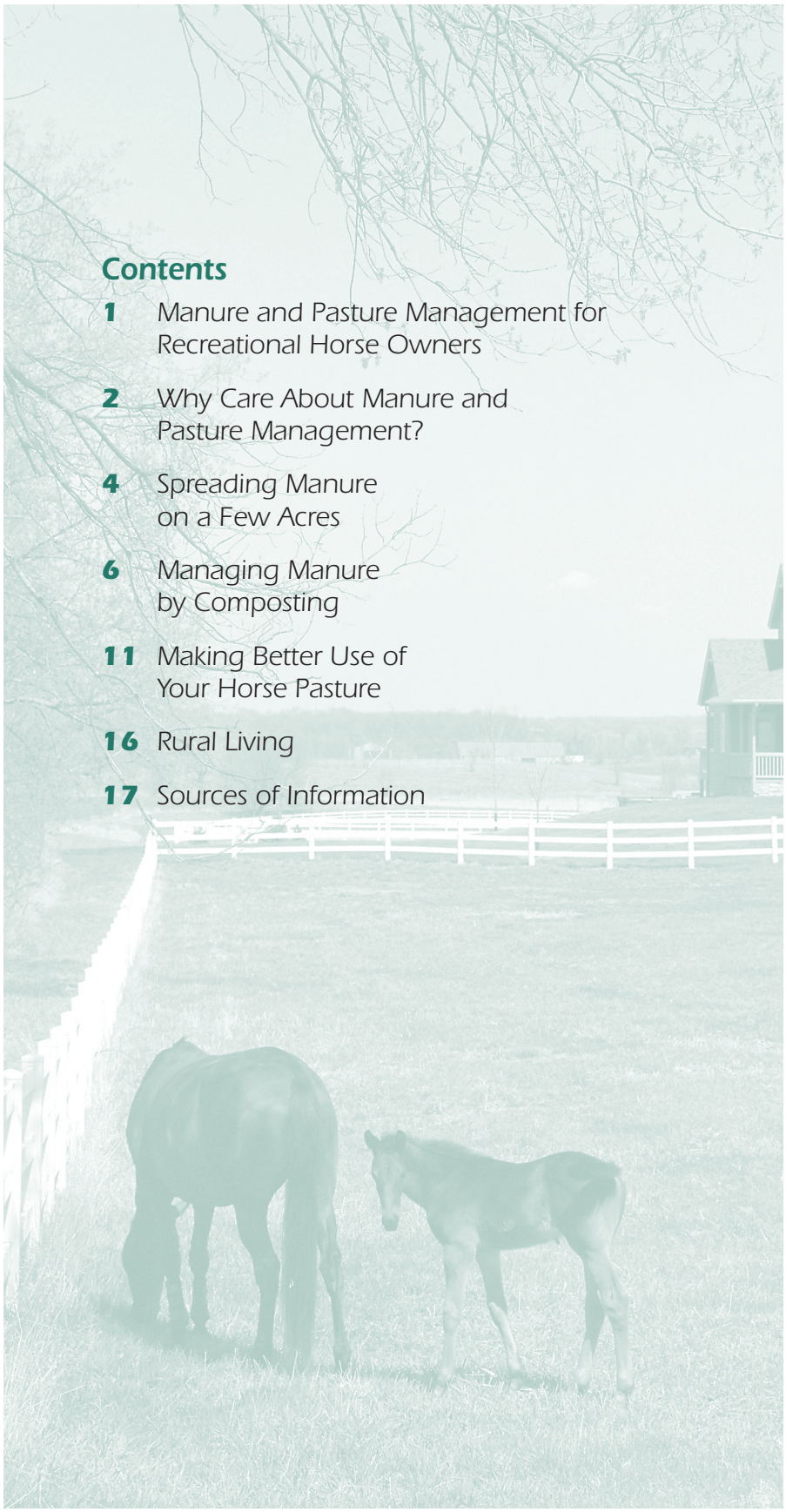
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Manure and Pasture Management for Recreational Horse Owners

Horses are a common sight along Minnesota's roads. No one knows how many horses there are in the state, but most enthusiasts would agree that the popularity of horses continues to rise. At the same time, new residents keep arriving, especially in the Twin Cities metro area, where forecasters estimate 600,000 more people will live by 2020.

As a result of these trends, Twin Cities recreational horse owners increasingly find themselves in the middle of urban or rapidly growing suburban areas, where they often receive more scrutiny from their local government and neighbors than do their counterparts in rural areas. To maintain good relationships and minimize the need for regulation, it is critical they know and practice proper manure and pasture management.

This publication is intended to help recreational horse owners better manage manure and pastures. It describes two options for manure management: land spreading and composting. It also offers guidelines for improving pasture productivity, and it provides practical management suggestions for owners in urban or rapidly growing suburban areas.

Hennepin County is home to more than 500 recreational horse owners and 2,800 horses, as well as more than 1 million people in 46 cities. Most horse owners in Hennepin County live in the western half of the county and care for 5 to 10 horses. Many own fewer than 20 acres of land, including buildings, exercise areas, pastures, and other crop fields. As a result, some lack the pasture, cropland, and/or equipment needed to benefit from the plant nutrients contained in their horses' manure. They also may lack the knowledge needed to prevent soil erosion from overgrazed pastures or denuded exercise lots and to prevent nutrient runoff as a result of overapplication, improper incorporation, or application of manure at the wrong time or in the wrong place.

TIP: A typical horse, which weighs about 1,000 pounds, produces between 45 and 55 pounds of manure per day, or around nine tons per year. Hennepin County's 2,800 horses have the potential to produce 50 million pounds of manure annually.

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Why Care About Manure and Pasture Management?

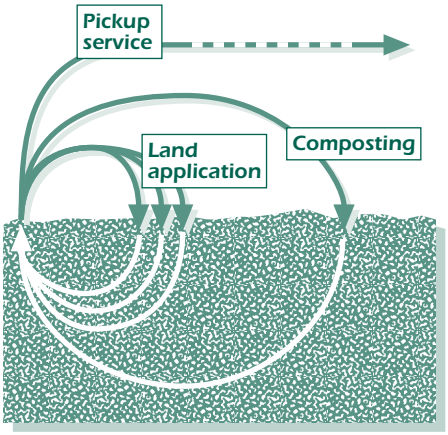


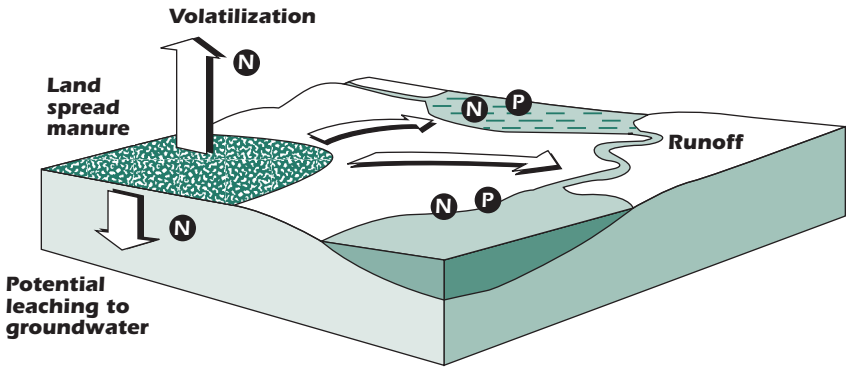
Figure 1.
Manure management options

Proper manure management is important for the health of horses and the environment. Ideally, manure should be removed from stalls daily. If allowed to accumulate in stalls, it can attract flies, harbor parasites and pathogens, increase the risk of thrush and other hoof-related problems, and generate offensive odors. Exercise paddocks may need weekly cleaning.

Manure should be spread evenly on cropland and incorporated into the soil to maximize its nutritional benefits to crops and minimize odor pollution. However, some horse owners may not have enough land to spread manure without overapplying, which creates a pollution hazard. If this is the case, rotationally grazing horses in pastures can help minimize manure buildup and manure-handling costs. If you have very little land, you might need to compost manure to reduce its nitrogen content and volume. Or you may wish to hire a pickup service or find a nearby landowner or farmer who can make productive use of your horse's manure (Figure 1).

Figure 2.
How nitrogen (N) & phosphorus (P) enter water supplies

Adapted from Category Solid: Commercial Animal Waste Technician Training Manual, University of Minnesota Extension Service, 1999.



Horse manure is an excellent nutrient source for pastures and other field crops when properly applied at the optimum time and in the correct amounts. It contains nitrogen, phosphorus, potassium, sulfur, and micronutrients, and is high in organic matter. Proper application of manure's nutrients can help reduce the need for costly supplemental fertilizers. Organic matter provided by manure enhances soil structure and water- and nutrient-holding capacity, reducing the soil's susceptibility to erosion. Overall soil quality is enhanced with manure applications.

Environmental Concerns

The nutrients in manure that boost plant growth can be a pollution hazard if the manure is improperly handled (Figure 2). For example, if manure is overapplied to fields, nitrogen in the form of nitrates can move into the soil and eventually into groundwater, a major source of drinking water for many rural homes and communities. Consumption of water with high nitrate levels can reduce the oxygen-carrying capacity of blood (methemoglobinemia). Nitrate consumption has also been linked to cancer. In light of this health risk, the Minnesota Pollution Control Agency (MPCA) explicitly prohibits the overapplication of nitrogen on pastures and other field crops.

Horse manure also contains phosphorus. When phosphorus enters lakes, rivers, and other surface waters, it stimulates the growth of algae, aquatic plants, and other vegetation. One

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pound of phosphorus can produce up to 500 pounds of aquatic plants. When these plants decay, they reduce oxygen to levels where many fish species cannot survive. Generally, phosphorus moves into surface waters when manure applied or stored on the soil surface is moved laterally, usually by rainstorms, into a drainage flow system toward the water. Even manure that has been worked into the soil can be a concern if the soil erodes into the water body throughout the year. Currently, no Minnesota law limits the amount of phosphorus that can be applied to cropland or pastures.

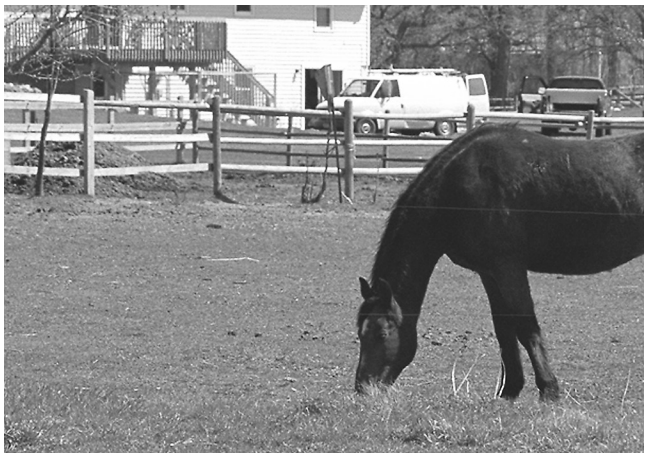
Feedlot Permits

Minnesota's feedlot program, created in 1971, helps protect the state's waters from improperly managed manure. The MPCA, which administers the program, defines a feedlot as "any animal confinement area where a vegetative cover cannot be maintained, including poultry ranges, zoos, and race tracks and fur farms." Many recreational horse owners do not need to apply for a feedlot permit. You will need to apply for a feedlot permit if you operate a feedlot, manage 50 or more horses (in shoreland areas, 10 or more horses), and any of the following conditions exist:

- A new feedlot is proposed.
- A site that has been abandoned for five years or more is restocked.
- An existing feedlot is expanded or modified.
- The ownership of an existing feedlot changes.
- A National Pollution Discharge Elimination System (NPDES) permit is required under state or federal rules.
- Investigation of a complaint on a feedlot reveals a pollution problem.

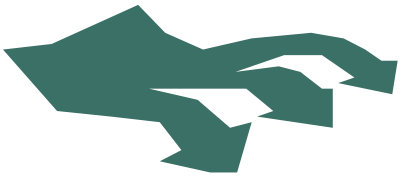
More than half of Minnesota counties have accepted delegated authority under the MPCA's feedlot program. In these counties, the county feedlot officer (CFO) is responsible for enforcing regulations and issuing permits for most feedlots. Hennepin County has not requested this administrative authority, so it is under the direct jurisdiction of the MPCA. Check with your county environmental officer or the MPCA regarding how state feedlot rules apply to your operation.

The Minnesota feedlot rule is currently under public review. Under the proposed rule, horse owners may need to register with the MPCA and abide by new land-spreading rules. In addition, the minimum number of horses for a feedlot designation may change. Check with the MPCA feedlot program hotline, (651) 296-7327 or (877) 333-3508, if you have questions about whether you need to register or apply for a permit.



Recreational horse owners need to know how to properly manage manure and bedding.

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Spreading Manure on a Few Acres

TIP: Many horse owners lack the equipment to load, handle, haul, and spread manure. Purchasing a tractor and manure spreader may be too expensive for your individual needs. If this is your situation, consider hiring neighbors who own the proper equipment or jointly purchasing equipment.

TIP: To temporarily store manure, surround the pile with a narrow ledge or berm to guard against nutrient or pathogen runoff and prevent nutrient leaching. Avoid stockpiling in or near wetlands or surface waters. Keep the stockpile 300 feet from surface drainage inlets. Do not store manure for more than one year.

Even if you don't need a feedlot permit, you still need to understand and employ proper practices when spreading manure. Limit manure application to agronomic rates (rates that are equal to or less than what the existing plants can use in a year), and ensure that the manure does not pollute water. Do not apply manure on shoreline property.

The MPCA prohibits manure spreading

- on soils with a high water table;
- on floodplains;
- on lakes, intermittent streams (streams flowing after certain rainfall events), seasonal streams (streams flowing only during snowmelt), and ditches;
- on grassed waterways;
- on frozen soils with slopes greater than 15 percent; and
- near direct groundwater conduits (e.g., wellheads and quarries).

Check with your local soil and water conservation district or Natural Resources Conservation Service office to help identify these special protection areas on your land and on bordering properties.

Land Application Guidelines

Proper manure application generally requires a series of decisions and some additional information gathering.

If all of the manure will be applied to existing pasture, the horses can do a fairly good job of distributing it themselves. Unfortunately, the droppings from the horses are often quite concentrated and can suffocate or stunt plants underneath them. To maximize pasture production, drag or harrow the pasture to break up the droppings and more evenly spread the manure.

If stockpiled manure is to be spread onto a field, you need to know the nutrient content so the application matches the nutrient needs of the crop. Although each source of horse manure will vary, a standard "N-P-K" value (Table 1) can be used to determine the number of acres needed to properly spread the horse manure.

When using stored manure in place of purchased fertilizer, you may wish to have a more accurate estimate of its nutrient content. Manure can be sampled, packaged, and sent to a soil-testing laboratory for nutrient analysis. Check with the University of Minnesota

Table 1. Nutrient content of horse manure

Manure (tons/year)	Percent Solids	Nutrient Content (lb./year)		
		Nitrogen (N)	Phosphate (P_2O_5)	Potash (K_2O)
9.3	21.0	110	59	110

Livestock Waste Facilities Handbook, MidWest Plan Service 1993, Table 2-2, p. 2.2.

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Extension Service (Extension) office in your county for bulletins with sampling procedures for manure and interpretation guidelines.

Not all of the nutrients in manure are available for plant use. For example, the percentage of the total nitrogen available is a function of the method of manure application and management as well as the chemical composition of the manure. For horse manure, typical nitrogen availabilities range from 35 percent of the total nitrogen if the manure is spread and left on the soil surface, to 60 percent if the manure is spread and worked into the soil within a day. Availabilities of phosphorus from phosphate (P_2O_5) and potassium from potash (K_2O) are commonly set at 80 percent and 90 percent of totals, respectively.

After estimating the manure's nutrient content, select the field/crop targeted for application. Certain fields and portions of fields must be excluded from manure application based on environmental precautions. Some guidelines are listed in Tables 2 and 3.

The amount of nutrients to be applied to a field depends on the crop to be grown, its expected yield, soil test levels, and other credits. For more information contact your University of Minnesota Extension Service county office.

Calculating manure application rates is a mathematical exercise that aligns the nutrients supplied in the manure and the nutrient demands of the crops. Although it sounds quite simple to take a manure analysis, account for availability, and then match this to crop needs, several decision aids are available upon request.

After you determine application rates, you need to make some decisions about method of application. The primary goal is to uniformly apply manure throughout the field. This takes time and effort on the part of the person driving the applicator. It is also important to know the actual rate of manure application and how to modify the tractor speed to achieve the desired rate. Several bulletins are available for making this calculation.

The timing of the manure application is also important. The ideal scenario is to spread manure in the spring. This supplies nutrients for the upcoming growing season and minimizes the amount of time for potential losses before crop uptake. An alternative is to spread manure in the fall. Avoid applying manure in winter. Manure applied in this fashion is highly susceptible to movement if it rains.

Table 2. Recommended separation distance (feet)

	Surface spreading (no incorporation)	Incorporation
Streams or rivers	*	*
Lakes	*	*
Water wells	200	200
Sinkholes	100	50
Individual dwelling**	100	50
Residential development	300	300
Public roadways	25	10

* See Table 3

** Distance may be reduced with permission of owner

Adapted from Running Your Feedlot for Farm Economy and Water Resource Protection, MPCA, 1993.

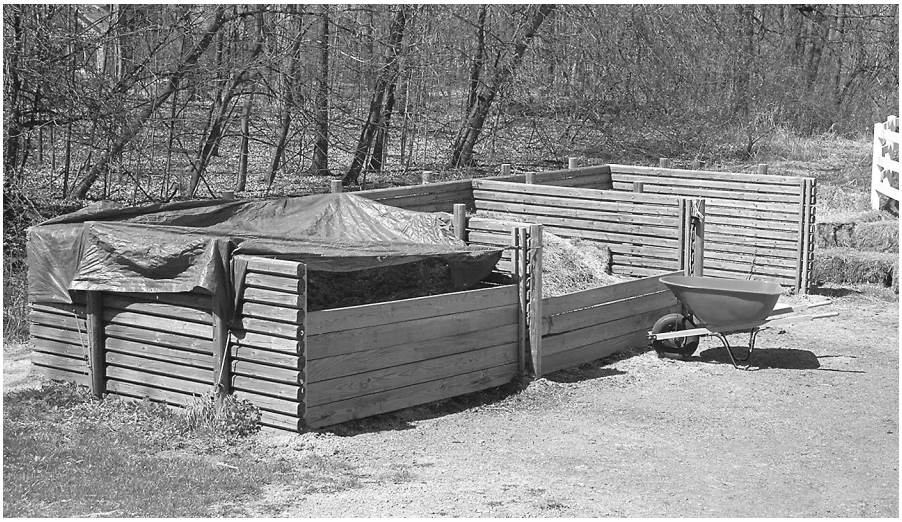
Table 3. Separation distance from streams, rivers, and lakes for land spreading of manure (feet)

Slope (%)	Soil texture	Time of year	Minimum separation (feet)
0–6	Coarse	May to October	100
0–6	Coarse	November to April	200
0–6	Medium to fine	May to October	200
0–6	Medium to fine	November to April	300
Over 6	Coarse	May to October	200
Over 6	Medium to fine	May to October	300
Over 6	All soils	November to April	Not recommended

Adapted from Running Your Feedlot for Farm Economy and Water Resource Protection, MPCA, 1993.

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Managing Manure by Composting



Composting requires several bins.

Another way to manage horse manure is to compost it. Composting is managed, accelerated decomposition. In decomposition, microorganisms—including bacteria, actinomycetes, and fungi—break organic materials into smaller particles and build new molecules. In doing so they give off carbon dioxide, water vapor, and heat. Composting accelerates decomposition by promoting the growth of microorganisms. It kills weed seeds and reduces pathogens, odors, and volume. The finished compost is a valuable soil amendment.

Composting is often slightly more expensive than land spreading manure. However, many people who have become avid composters believe that the added benefits of composting far outweigh the costs.

Most people have at least some familiarity with composting through campaigns that encourage backyard composting of grass clippings or leaves. Composting of horse manure differs only in the type and volume of materials composted.

Horse manure and bedding contain the carbon and nitrogen necessary for successful composting. The challenge is to ensure the proper proportions of the materials. The type and typical daily volume of bedding will substantially affect the ease and rate of composting. Different types of organic materials compost differently. You'll need to customize the process to fit your specific combination of manure, bedding, and other organic materials. You can find the best mixture by developing a clear understanding of the process, accurately measuring materials, and going through some trial and error.

Composting is a balancing act. Providing ideal environmental conditions for microbial growth accelerates the process. Just enough water, air, carbon, and nitrogen getting piled, turned, and aged without contaminants makes for good compost. Some things to consider for successful composting:

Air. Approximately two-thirds of the pile's initial volume must be interconnected free air space. Air space allows oxygen to move into and carbon dioxide and water vapor to leave the pile. Too little air space reduces the oxygen available to the microorganisms; too much air space dries the pile out and prevents it from reaching temperatures high enough to compost.

Manure without bedding, or manure with sawdust or wood shavings, may create a pile with too little air space. Measure air space using

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the "five-gallon bucket test" (see right). Add bulking materials, such as shredded wood, bark, or dry straw, to increase air space.

Water. Water is required for good composting. Micro-organisms grow best with moisture around 50 percent. If the compost feels like a freshly wrung out sponge, the pile most likely contains the proper amount of moisture. If water runs out of the pile or if you can squeeze water from a handful of compost, it is too wet. In this case you will need to add straw, fall tree leaves, corncobs, shredded bark, or chipped brush to dry the pile.

Closely monitor the moisture level, especially during hot, windy summer days when as much as 5 percent (water equivalent) of the pile's total dry weight can be lost. Adding a little water each day is much better than letting the pile get dusty and dry, then trying to rewet it back to the 50 percent range.

Size and construction. Size of the pile does matter. Bins 4′ x 4′ x 5′ tall seem to work best for horse manure. Bins constructed from 2″ x 6″ (untreated) boards and heavy-duty posts will hold up the best. Bins with a wooden floor with small spaces between boards that allow air to move from underneath the pile perform better than bins built directly on the ground. Laying flat drain tile on the wooden floor will further enhance airflow. Each of these bins should easily hold 1.5 tons of horse manure. If your horse manure fills up more than six bins of this size, you may want to consider a windrow composting system.

Temperature. Temperatures of 131° F to 150° F are ideal. Hotter or cooler temperatures will slow down the process. Maintain these temperatures for at least 21 days

Five-Gallon Bucket Test

Materials needed:

- five-gallon pail
- one-gallon pail
- typical mix of materials added to the compost pile (horse manure, wood shavings, straw, etc.)

Fill the five-gallon pail one-third full with a mixture of typical compost materials. Drop the pail 10 times from a height of six inches onto a concrete floor or sidewalk. Be careful not to spill any of the compost materials.

Add more material to fill the five-gallon pail two-thirds full. Drop the pail 10 times from a height of six inches.

Fill the five-gallon pail up to the top. Drop the pail 10 times from a height of six inches. Fill the five-gallon pail to the top once again. Add water to the five-gallon pail, keeping track of how much you can fit in before it overflows. If you can add 2-1/2 to 3 gallons of water, you have adequate free air space. If not, you need to add more bulking material, such as straw, coarse wood chips, or shredded bark. If you can add more than 3 gallons of water, you have too much free air space. The particle size must be reduced by shredding or grinding the compost materials or by mixing finer materials into the compost.

Retest new mix.

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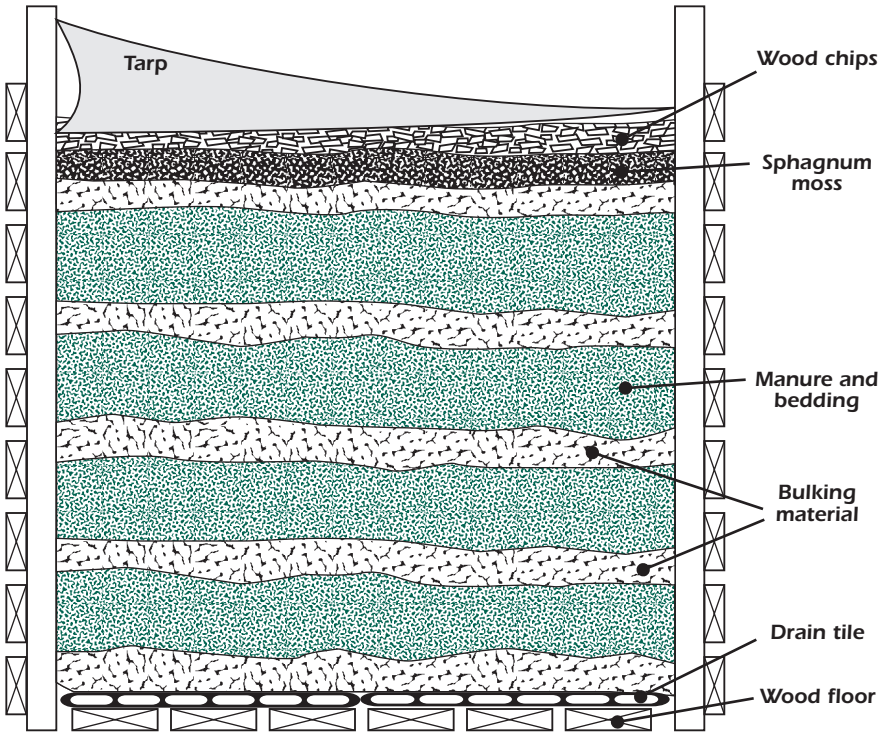
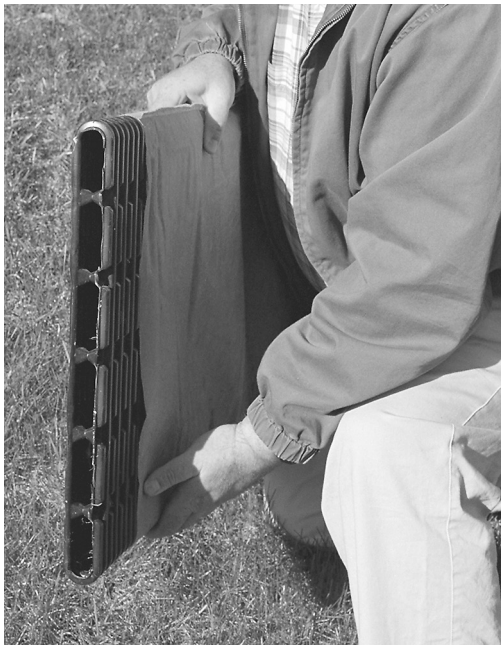


Figure 3.
Layering the compost pile

Adapted from Composting Fish Waste: An Alternative for Minnesota Resorts, Minnesota Sea Grant College Program and Minnesota Extension Service, 1991.



Line the bottom of each compost bin with flat drain tile.

to reduce pathogens and kill weed seeds.

A three-foot-long, nonmercury compost thermometer, available at some hardware stores, is useful for taking pile temperatures. Recording daily temperatures will help you become a better composter. If pile temperatures far exceed 150° F, reduce the size of the pile and check to make sure it has adequate free air space.

Location. Locate your bins at least 100 to 150 feet away from wells, ditches, streams, and lakes. Leave a buffer strip of taller grasses, wildflowers, and shrubs between the compost bins and any drainage way or water feature to keep manure from washing down a slope and into a water body during a heavy rainstorm. Place your bins in a dry area near the point of manure collection. Try to locate them out of view and downwind from neighbors. Bridal wreath spirea works well as a visual screening plant in most soils in this climate. Check with your local municipality for any additional regulations.

Building a Compost Pile

Start by creating a base layer that will allow air to flow into the bottom of the pile. Lay down 6 to 8 inches of wood chips or flat drain tile directly on the wooden floor of the bin. (If you use drain tile, cover it with a thin layer of a synthetic polyester material to prevent the holes from plugging up.) The bin is now ready for the manure and bedding mixture, along with any bulking materials, such as wood chips or shredded bark, needed to provide free air space.

Build the pile by alternating layers of manure and bulking materials (Figure 3). Separate manure layers with 6 inches of bulking material. The finer the bedding material, the more likely the manure layer will benefit from additional bulking

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material, and the thinner the manure layer should be. The manure layer should be from 6 to 24 inches thick. To ensure good composting, add a bucket of mature compost or soil little by little as you build the pile.

Build the pile to a height of 5 feet and cover with a 4-inch layer of sphagnum peat moss to control odors and top it off with a 4-inch layer of wood chips. A tarp placed 2 to 10 inches above and covering only the top of the pile will prevent it from quickly drying out or receiving too much moisture from rain and snow. You can easily attach a tarp by extending the corner posts of the bin with short lengths of two-by-four.

The higher the bedding-to-manure ratio, the more likely it is that you will need supplemental nitrogen. If you have the proper amount of water and free air space and the pile still doesn't heat up, add one-third cup of a commercial nitrogen fertilizer such as ammonium nitrate or ammonium sulfate or another high-nitrogen fertilizer
(33-4-2) to the pile each day.

Turning mixes the pile's cooler, outside layer with the hotter center and enhances the composting. Once you have your pile built, wait 7 to 28 days before turning so it can "cook." Try turning again at 24, 72, and 120 days. Three to seven turns during the life of the pile are common. Base the turning schedule on the pile's materials, weather, and the anticipated use of the compost. When piles have the right amount of moisture and air space, a temperature of
120° F or lower usually indicates the need to turn the pile so it can reheat.

Frequently Asked Questions About Composting

Does the compost pile need a starter or activator to get the composting process going?
No. Just add a five-gallon pail of fertile soil or mature compost to the pile as you build it. That should provide enough microorganisms to ensure composting.

Can backyard materials go into the pile?
Yes, but limit grass clippings to layers of one or two inches. Dry fall leaves work well as bulking materials.

How long does it take to make good, mature compost?
It depends. With average management and most conditions achieved most of the time, good, mature compost will take about six months. Measure six months from the day you completely fill a bin.

How will I know that the composting is done?
The compost is done when the pile no longer reheats after turning and the volume has decreased to half its original size. Mature compost should look more like soil than bedding material and manure.

How do I prepare the pile for winter?
If you have an entire bin available, build a six-to eight-inch layer of wood chips. Next, put down three feet of leaves and then alternate layers of manure and bulking materials. By spring the leaves will have decomposed and the pile will need some turning, but it should be nearly finished.

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Composting Hints

When cleaning the horse stalls, put the manure and bedding directly onto the compost pile. This is also the best time to add water if needed.

Sawdust contains very little nitrogen and a lot of carbon. In small quantities (less than 10 to 15 percent) it can help prevent compaction in compost piles. However, this is only true of coarse sawdust from sawmills or chain saws. The very fine sawdust from carpentry and cabinetwork—often preferred by horse owners—may actually compact so tightly so as to make a compost pile almost airless. If you use fine sawdust for bedding, you will most likely need to also add bulking material to prevent compaction and provide free air space so oxygen can get to the microorganisms.

Wood shavings provide more air space than sawdust but still require the addition of more bulking material to achieve the proper amount of free air space. Straw bedding can sometimes meet the requirement for air space. Use the bucket test to find out if you have adequate free air space. Remember to add the bulking material as you build the compost pile.



If you can't build enough bins to hold all of your manure for the roughly six months it takes to create mature compost, you may instead choose to produce immature compost. If you set up and properly manage your bins, you can expect to reduce the volume of manure up to 50 percent and produce immature compost in six to eight weeks when outside air temperatures are above 50° F.

Immature compost provides organic matter, retains moisture, and can work quite well as mulch in home gardens. Do not apply in excess of ½ to 1 inch thick because it will likely create a nitrogen deficiency in plants for 4 to 10 weeks after application.

Using Compost

Making compost is really only a start. You need to think about how you will use the finished compost. Will you use it yourself? Sell it to your neighbors? Market it to a wider geographical area? By using compost to grow plants we complete the organic matter cycle.

Good quality compost should be applied only at recommended rates and to plants and soils that can use the nutrients. As a rule of thumb, good quality horse manure compost can be applied ½ to 1 inch thick (approximately 24 to 57 tons per acre) and then mixed well into the soil.

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Making Better Use of Your Horse Pasture



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Improving the productivity of your pasture offers several benefits. Pasturing can:

- ***Reduce the amount of purchased hay.*** If you have only a few acres to dedicate solely to pasture, the total substitution of pasture for purchased hay may be an unattainable goal. However, you can reduce the amount of purchased hay by improving the productivity of your pasture. An ideally managed, highly productive pasture can potentially provide a large portion of a horse's forage requirements from May through September.

- ***Distribute manure in the field and reduce time spent cleaning stalls.*** Horses grazing managed paddocks will drop their manure in different parts of the pasture instead of concentrating it in stalls, feedlots, exercise lots, and loafing areas. This reduces the volume of manure in stalls and lots as well as the time needed to clean these areas.

- ***Reduce the labor and equipment used to harvest forage.*** Think about your pasture as a crop that horses harvest by grazing. When grazing, horses eliminate the time needed to cut, rake, bale, store, and feed the forage and the cost of buying, operating, and maintaining machinery.

- ***Reduce the amount of purchased fertilizers.*** Manure recycles nutrients beneficial to pasture plants. The more nutrients manure provides, the fewer pounds of supplemental fertilizer are required. To ensure that pasture plants can more easily use the manure's nutrients, frequently drag or rake the manure deposited in the pasture. This will more evenly distribute the manure and promote its breakdown while also reducing the potential exposure of horses to internal parasites.

- ***Enhance community viewsheds.*** The term "viewsheds" refers to fields alongside roads in primarily residential areas that allow drivers and residents to enjoy open views of bordering landscapes. Providing a bucolic scene like horses grazing on pasture can build goodwill with neighbors.



Pasturing horses offers numerous benefits to recreational owners.

Pasturing horses also has some disadvantages. It can increase time and expense of fencing, monitoring pasture growth, and moving horses; potential for neglecting horses; risk of danger to horses from toxic weeds, escape, or injury on fencing; potential for horse damage to trees; and potential exposure to internal parasites, disease-carrying insects, ticks, and mosquitoes.

TIP: To protect water quality and shorelines, horses should not have free access to waterways, ponds, lakes, or wetlands. Do not allow animals to graze in public waters. Check with your local government about regulations governing acceptable sites for pastures.

Pasture Improvement

Horse pastures must be carefully managed in order to maximize their productivity. Some things to consider:

Soil fertility. Fertility refers to the level of essential nutrients present and available for pasture plants (forages). You can test your pasture's soil to determine if additional nutrients must be applied to yield the volume of grasses and legumes desired. If a soil test reveals a deficiency, you will need to apply additional nutrients using horse manure and/or commercial fertilizers.

You can get a soil test kit from any University of Minnesota Extension office or private soil testing laboratory. Follow the instructions for collecting a sample to send in for analysis. Request tests that measure the levels of phosphorus (P) and potassium (K), soil pH, percent organic matter, and soil texture. Note on the test form whether the pasture consists of grasses or a mixture of grasses and legumes. Additionally, provide a desired yield goal (tons of forage per acre) for the pasture. Two tons per acre is an easily attainable yield goal.

The test results will include fertilizer recommendations in the form of nitrogen (N), phosphate (P_2O_5), and potash (K_2O). Pastures may need additional nutrients that are best applied in early spring (mid April to early May). You may need to add lime to acid soils to adjust the pH.

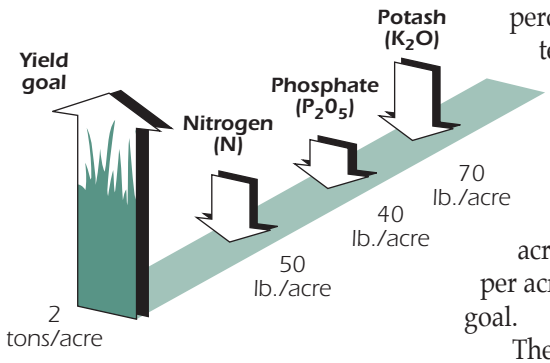
Although fertilizer application should be based on a soil test, Figure 4 offers some general guidelines for the amount of fertilizer to apply to a primarily grass pasture.

Most of the phosphorus and potassium consumed by horses will be returned to the pasture through their manure. Periodic soil tests on the pastures will confirm this nutrient recycling. Nitrogen will likely need to be annually applied to pastures consisting of primarily grass with few legumes.

Weeds. Weeds compete with legumes and grasses for soil moisture, sunlight, and nutrients. Grazing will keep some weeds out of pastures, but cannot eliminate all weed problems. Positive identification of weed species is the first step in determining the appropriate control strategy. Horse owners should be most concerned about toxic weeds (e.g., hoary alyssum) but should strive to control other weeds in order to further improve their pasture's productivity. You can control weeds by rotational grazing, mowing, hand pulling, or chemically treating weeds when the horses are elsewhere.

Species mix. Pastures can provide feed for horses from May through September. Generally speaking, grasses prosper during the cooler days at the beginning and end of the growing season, while legumes such as alfalfa and other clovers are most productive in the warmer, midsummer months. Additionally, legumes add protein to the pasture's feed value and provide nitrogen for the grasses through nitro-

Figure 4.
Recommended fertilizer application for a grass pasture



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gen fixation.

If you do not choose to devote a high level of management to your pastures, it may not be worth the extra expense of including legumes. Additionally, the durability of grasses helps the pasture resist extensive trampling by the horses. When starting a new pasture, research from the University of Minnesota suggests the following mix for horses (per-acre basis):

- 8 pounds alfalfa
- 6 pounds smooth bromegrass
- 2 pounds orchard grass
- ½ pound white clover (if desired)

Close and continuous grazing of pastures with this mix will likely result in the survival of only bluegrass and thistles. If you choose to allow your horses to continuously graze the pastures, substitute bluegrass and white clover for alfalfa. Bluegrass can withstand close grazing and forms a sod that can better tolerate horses' hooves.



Overgrazing. Continuous grazing, or allowing horses access to the entire pasture from spring through fall, will make existing weed problems even worse. If allowed to continuously graze a pasture, horses can seriously reduce the forages' productivity. Under continuous grazing, forages never get a chance to recover and outgrow the weeds. Legumes such as alfalfa and other clovers will not survive if continuously grazed. Grasses such as Kentucky bluegrass can tolerate continuous grazing but will be less productive than if managed under a rotational grazing plan.

Carefully monitor your horses' grazing to maximize feed value. Continuous, close grazing, when horses eat the plants down to very short levels, will seriously stunt the regrowth of the plants and allow weeds such as

Rotational Grazing

Healthy forage plants are more productive if given an opportunity to regrow between grazings. You can enhance forage growth by dividing a pasture into at least four separately fenced paddocks and rotating your horses among them (Figure 5).

Since grass pasture plants grow most rapidly in spring and slow down in the fall, you will need to experiment to come up with an optimum rotation length. Start with three to four weeks of rest per paddock during summer, maybe fewer in spring and more in fall.

The stocking rate per acre does not change under a rotational grazing plan. The general rule of thumb is to start your horses grazing in a paddock when the forages are at least 6 to 10 inches long; move your horses after they have grazed the forage to an average height of 3 to 4 inches. (If bluegrass is the dominant forage, horses can graze it down to 2 inches and then get turned back into the pasture when it has reached a height of 6 to 8 inches.)

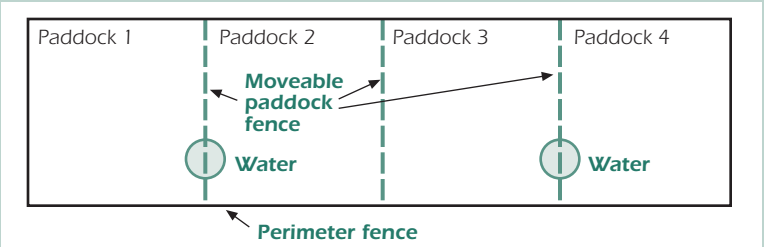


Figure 5. Rotational grazing paddock layout

For example, say you have two horses and four acres of pasture with uniform soil type, topography, plant species, and yield throughout the entire area. You could divide the pasture into four one-acre paddocks and graze the horses for one week per paddock. This will give each paddock three weeks to regrow. If regrowth is slower, you'll need to supplement the pasture with hay. If the growth is faster, you'll need to rotate more often or make hay from the paddock.

Undergrazing (grazing too few horses on too large of a paddock for too short of a grazing period) can encourage horses to selectively graze and result in a lot of underutilized forage requiring clipping or hay making.

Lightweight electric fencing consisting of polywire strung on lightweight plastic or fiberglass posts work well for dividing a pasture into paddocks. These materials are easily connected to perimeter fences and allow you to modify the paddock size or shape depending on forage growth.

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thistles and other less desirable species such as bluegrass to get ahead of the desirable forages. Well-timed rotations through several, smaller-sized paddocks will help desirable plants reestablish themselves.

Water. Like urban lawns and other field crops, horse pastures benefit from adequate water throughout the growing season. However, purchasing and maintaining irrigation equipment can be much more costly than occasionally purchasing supplemental forage. Healthy plants that have not been overgrazed will be more productive during drought.

Pasture Management Summary

Table 4 summarizes management activities for grass pastures. Well-managed grass/legume pastures will not need supplemental nitrogen. After you have gotten to know how much your horses' grazing reduces the soil nutrients, you will not need to annually test your soil.



Table 4. Pasture management calendar

Dates (approximate)	Pasture Activity
March 1	Animals out of pasture
April	Soil test and fertilize (end of month)
mid-April	Apply supplemental nitrogen (grass pastures)
May 1–15	Begin grazing
June	Cut surplus forage for hay
mid-June	Apply supplemental nitrogen (grass pastures)
early July	Cut weeds and mature plants
mid-August	Apply supplemental nitrogen (grass pastures)
September	Cut or spray perennial weeds
September/October	Let plants recover
winter	Snow cover

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Frequently Asked Questions About Pastures

How much pasture should I allow per horse?

Stocking rates depend on your horses' feed needs and the pasture's yield. As a general rule, horses eat about 1 to 2 percent of their body weight per day in the form of pasture forage. Assume that a 1,000 pound horse will eat about 15 to 20 pounds of pasture forage per day.

Stocking rates of one horse per two to four acres may be easily achieved with a little attention to fertility, weeds, and forage mix. Higher rates could result in the horses trampling much of the pasture and damaging forage. However, well-managed pastures (those with adequate fertility, few weeds, and the appropriate plant mix) can be rotationally grazed at higher stocking rates.

What should I do about uneven grazing?

Since horses selectively graze younger pasture plants, you may need to clip the mature grasses and legumes still standing after the horses have grazed the pasture to induce them to regrow. Allowing the ungrazed plants to remain standing without clipping could stunt the regrowth of the other forages by shading them out. If you need to clip your pastures, leave a four-inch stubble. Clipping the pasture too frequently will encourage short, less productive forages such as bluegrass.

How can I renovate existing pasture?

An overgrazed, underfertilized, weedy pasture will become more productive when managed effectively. One of the most common ways to renovate existing pastures is to directly seed legumes into the standing forages. You can do this by scattering the seeds on the soil surface, interseeding with a conventional grain drill, or interseeding with a heavy grain or no-till drill. Some county soil and water conservation districts rent seeders for a nominal fee.

To give the newly seeded forages the best chance of establishing themselves, University of Minnesota research recommends a spring seeding when the pasture grasses are five to six inches tall. Since new seedlings can't compete with established plants without help, consider applying a glyphosate herbicide like Roundup® at a reduced dosage (about two-thirds strength) before seeding to suppress the standing grasses just enough to allow new seeds to get started. Grass pastures may benefit from adding nitrogen over the course of the growing season. If soil tests indicate a nitrogen deficiency, consider applying urea in mid-April, June, and August.

Can grazing legumes lead to bloat?

Pastures with a large percentage of legumes can lead to bloat. To help prevent bloat, introduce horses to fresh, lush grass/legume pasture a little bit at a time. Do not turn hungry horses into a lush grass/legume pasture. Provide dry hay and plenty of salt and water to newly pastured horses.

What can I do about pocket gophers?

Pastures may suffer from an infestation of pocket gophers. Pocket gophers feed on forages and their hills can smother plants. Horses can trip on their mounds and mound entrances.

One way to eradicate pocket gophers is to rotate pastures to crops such as small grains that effectively eliminate their food source. If rotation is not an option, you can use repellants, toxicants, and traps to control



A no-till drill can be used to interseed directly into existing pasture.

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Rural Living



Urban neighbors may know very little about managing horses.

Most state regulations regarding livestock and agriculture do not cover owners of small numbers of recreational horses. Some communities, especially those becoming more suburban, have adopted ordinances to fill this apparent regulatory void. Such ordinances may limit the number of horses allowed per grazable acre, require horse owners to draw up and abide by a manure management plan, or simply request the owner to ensure that the operation does not have a potential pollution problem.

If you live in an urban or rapidly growing suburban area, you will likely receive more scrutiny from your neighbors and municipality than recreational horse owners living in rural areas. By taking the initiative to be a good neighbor, you can demonstrate responsible management and share the joy of horses with your community.

Some suggestions:

- Acquire and display a working knowledge of the potential environmental and health impacts of your operation.
- Keep manure off roadways when transporting to distant fields.
- Consider wind direction when spreading manure. Incorporate manure as soon as possible to minimize odor pollution.
- If stockpiling manure, pay special attention to odors and flies.
- Keep current on proposed local ordinances and state regulations.
- Host an open house to inform your neighbors and demonstrate how to properly manage your land, pasture, and manure.
- Encourage and help other horse enthusiasts to learn and practice proper manure and pasture management.

Attachment: manure-and-pasture-management (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

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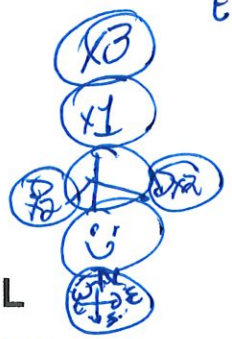
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THE HEALTH BENEFITS OF HAVING A COMPANION ANIMAL

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Millions of Americans have pets in their households and benefit from the unconditional love they bring. There are also countless health benefits (https://www.cnn.com/2020/02/20/health/benefits-of-having-a-pet-wellness/index.html) that come with having a companion animal. But not all landlords and condo associations recognize these benefits and allow tenants or residents to keep pets in their units. However, if you require an emotional support animal (ESA) to relieve the symptoms associated with a mental health condition, you are afforded legal protections under state and federal law.

Health Benefits of Having a Pet

Pets can be a crucial source of support and comfort. In addition to providing affection and lifting spirits, research shows that pets also offer a wide variety of health benefits (https://www.cdc.gov/healthypets/keeping-pets-and-people-healthy/how.html#:~:text=There%20are%20many%20health%20benefits,depression%20by%20giving%20us%20companionship.) — emotionally, psychologically, and physically. Not only can they help with relieving the anxiety or stress related to certain events, but interacting with pets can increase good moods overall.

Studies indicate that having a companion animal by your side can:

- Decrease the risk of heart attacks
- Reduce loneliness and depression
- Increase your self esteem
- Increase cognitive functioning in older adults
- Provide opportunities to exercise and socialize
- Relieve stress
- Lower blood pressure

Significantly, a large study conducted last year revealed that those who own dogs are 24% less likely (https://www.cnn.com/2019/10/08/health/dogs-help-us-live-longer-wellness/index.html) to die from any cause. In cases in which the person had already suffered a stroke or heart attack, they were 31% less likely to succumb to cardiovascular disease. Additionally, dog owners who walk their pets are found to get up to 30 minutes more exercise each day than those who don't.

Why ESAs Are Important for Individuals with Anxiety and Depression

Although the health benefits of having a pet are well-documented, it's vital to distinguish them from emotional support animals. Notably, ESAs are not classified as pets or service animals. They are specifically prescribed by licensed healthcare providers to help individuals with mental disabilities cope — and they can be particularly important to those who suffer from anxiety, depression, or other debilitating mental health conditions.

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- 2022 Guide to Florida Emotional Supp Animal Law (https://www.floridacondoattorneys.cc 2022-guide-to-florida-emotional-support-animal-law/) - February 28, 2(
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An ESA can assist an individual with depression or anxiety in several different ways. ESAs can support emotional functioning by helping with establishing social connections, acting as a buffer in situations that might feel uncomfortable, and providing protection from low moods. ESAs have been found to boost the production of the neurotransmitters in the body that stabilize one's mood, including dopamine and serotonin.

Because emotional support animals require walking, grooming, feeding, and playtime, they can make a person suffering from depression feel they have a purpose. They essentially force the individual to get moving and motivated since the animal needs their attention. Effectively, an ESA takes a person's focus off their own problems and redirects their mind toward the animal's care. Importantly, ESAs can also help ease the symptoms associated with panic attacks, bipolar disorder, phobias, and various other psychological disorders.

How to Qualify for an Emotional Support Animal in Your Condo or Apartment

It can be easier to keep an animal in your condo or apartment if your HOA or landlord allows pets. However, it's vital to understand that you have certain legal protections (https://www.floridacondoattorneys.com/therapy-dogs-and-housing-pet-restrictions/) under Florida law and the federal Fair Housing Act if you require an emotional support animal — regardless of a "no pets" policy. If you have a mental health condition and believe you would benefit from having an ESA, the first step is speaking with a licensed healthcare professional about your symptoms. In the event that they determine an ESA would be beneficial to managing your condition, they will provide you with an emotional support animal letter.

Once a housing provider is in receipt of this letter, they are entitled to conduct a meaningful inquiry as to the need for the animal if the emotional disability is not apparent. Since these letters are usually very brief to comply with a medical professional's confidentiality obligations, they are usually subjected to a substantial amount of scrutiny by housing providers. If the documentation is reliable (https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf), the landlord is legally required to support an accommodation.

Critically, a law was passed in 2020 that specifies what housing providers are — and are not — allowed to do when it comes to ESAs. Although a housing provider can ask for certain information to support a request for an ESA, they are not permitted to require disclosure of a mental health condition or its severity. They are also prohibited from denying housing based upon an applicant's failure to provide information they are not allowed to request, including medical records.

It is against the law to knowingly misrepresent a pet as an ESA in Florida. Doing so could potentially result in second-degree misdemeanor charges punishable by up to two months in jail, a $500 fine, and 30 hours of community service.

We Can Assist You with Obtaining ESA Approval for Your Florida Condo

If you think you might require an emotional support animal to help alleviate the symptoms of a mental health condition, it's essential to consult with a knowledgeable attorney who can discuss your legal rights. The Law Offices of Herb M. Milgrim, P.A. is committed to providing high-quality representation to clients for a variety of condo matters related to emotional support animals (https://www.floridacondoattorneys.com/florida-laws-on-service-dogs-and-emotional-support-animal-letters/).

Serving the needs of clients throughout Florida (https://www.google.com/maps?ll=25.985472,-80.128486&z=16&t=m&hl=en-US&gl=US&mapclient=embed&cid=3745916352256705617), we offer adept advocacy and diligent representation for matters concerning emotional support animals in Broward, Dade, and Palm Beach Counties, as well as Miami, Naples, Brickell, Hollywood, Davie, Pembroke Pines, Hallandale, Sunny Isles, Aventura, North Miami, Boca Raton, and West Palm Beach. In housing matters, we only represent owners — never the condo associations or their boards. To schedule a consultation, we welcome you to contact us (https://www.floridacondoattorneys.com/contact/) at (954) 966-3909.

Attachment: Docs submitted by Mrs. Gamache at the BOPA (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

What Are the Requirements to Obtain an ESA Letter?

The first step to obtaining an emotional support animal is speaking with a licensed healthcare professional. They can best assess your condition and determine whether an ESA would be beneficial to your treatment. If they believe an ESA can be helpful for your situation, they will provide you with an emotional support animal letter (https://www.floridacondoattorneys.com/what-is-a-service-animal-letter/) — this is a signed document stating that they recommend an ESA to help you manage your mental health condition.

Housing providers are entitled to open a dialogue to conduct a meaningful review and question the letter if the individual's disability is not readily apparent and they have reason to question the disability or need for the animal. Healthcare providers are not experts in the Fair Housing Act and they tend to make ESA letters very brief to avoid confidentiality issues. As a result, these letters are usually scrutinized by the housing provider's general counsel. Therefore, it is important for disabled individuals to consult with someone familiar with the Fair Housing Act, such as an attorney, before submitting a doctor's letter or other request for an accommodation.

ESAs are commonly used to help alleviate the symptoms associated with:

- Panic attacks
- Severe phobias
- Anxiety
- Depression
- PTSD
- Bipolar disorder
- Personality disorders
- Other emotional and psychological disorders

In order for an emotional support animal letter to be valid in Florida, it must be signed and dated on the licensed healthcare professional's official letterhead. HUD has recently issued a Guidance (FHEO-2020-01 (https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf)) discussing what is and is not considered reliable documentation to support an accommodation. In addition, Florida laws have changed and now make it a crime to misrepresent an animal as an ESA. It can also be considered a crime under Florida law for a healthcare provider to issue a letter in support of an accommodation if they do not have personal knowledge of the individual's disability.

Are Emotional Support Animals Allowed in Condos?

Even if your condo or apartment building has a "no pets" policy, the HOA or landlord may be required to provide you with an accommodation for your ESA. Unless the animal would pose a safety or health threat to others, housing providers are prohibited from denying housing to a person who requires an ESA to alleviate symptoms of an emotional disability.

While housing providers cannot discriminate against individuals who require ESAs, Florida passed a law (https://www.floridacondoattorneys.com/florida-senate-passes-bill-criminalizing-misrepresentation-of-need-for-comfort-pet/) that went into effect on July 1, 2020 that explicitly states what housing providers are (and are not) allowed to do when it comes to ESAs. Significantly, a housing provider is not permitted to request that you disclose your mental health condition or its severity — regardless of the routine processes they may have in place. In addition, a housing provider cannot deny your application because you did not supply them with information related to your disability that they are not allowed to ask for under the law, such as medical records.

But if the disability-related need for a support animal is not readily apparent, a housing provider may request certain information to support the ESA request. For example, they may ask for information that identifies the therapeutic emotional support provided by the specific ESA, a disability determination from the government, or proof of eligibility for housing assistance due to a disability. If more than one ESA is requested, the housing provider is permitted to ask for information regarding the need for each one.

The recently enacted law also provides penalties for those who misrepresent their pet as an ESA — it is a second-degree misdemeanor punishable by up to 60 days in jail and/or a $500 fine to knowingly offer falsified documents to a housing provider concerning an ESA request. Those found guilty of this offense must also perform 30 hours of community service for a community service program that serves people with disabilities within six months of their conviction.

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- Condominium Purchasing Guide DBPR 2011 (http://www.myfloridalicense.com/dbpr/lsc/documents/GuidetoPurchasing2011.pdf)
- Condominium Unit-Owner Rights Updated (http://www.myfloridalicense.com/dbpr/lsc/documents/CondominiumUORREnglishMaster4162014.pdf)
- DBPR Guide For Recall of Condo Board Members (http://www.myfloridalicense.com/dbpr/lsc/documents/recallprocedures.pdf)
- Mediation of a Condo case (http://www.myfloridalicense.com/dbpr/lsc/documents/mediation_info.pdf)

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2022 GUIDE TO FLORIDA EMOTIONAL SUPPORT ANIMAL LAW

FREE: HOLY BIBLE SCRIPTURE INFORMATION; www.funclose.com

There are countless benefits to having a companion animal — from the unconditional love they provide to encouraging exercise and easing loneliness. But an animal can also help to protect against cognitive decline (https://www.cnn.com/2022/02/23/health/pets-brain-health-study-wellness/index.html) and alleviate the symptoms associated with certain mental health conditions. In fact, emotional support animals (ESAs) provide numerous therapeutic benefits to individuals struggling with mental health issues or suffering from certain emotional conditions. If you require an ESA, it's essential to be aware that you are afforded certain protections under both Florida law and the federal Fair Housing Act.

What is an Emotional Support Animal?

An ESA is a companion animal that offers emotional support or assistance to an individual with a mental disability. These animals are not pets. Instead, ESAs are prescribed by licensed healthcare providers (usually mental health professionals) to help alleviate one or more of the symptoms associated with certain psychological conditions.

An ESA does not require any formal training and can be any type of animal but is usually a dog or a cat. To qualify for an ESA, a letter must be issued by a licensed mental health professional or physician verifying their patient's need for a support animal. However, there is no requirement that an ESA wear a tag or harness indicating that it is a support animal.

What is the Difference Between Emotional Support and Service Dogs?

It's crucial to understand that an ESA is not the same as a service dog (https://www.floridacondoattorneys.com/therapy-dogs-and-housing-pet-restrictions/) — and they are subject to different rules and regulations. Service animals are trained to do work or carry out specific tasks for a person with a physical disability. For instance, they might be trained to alert a person who is hearing-impaired of an alarm or guide a person who is visually impaired.

ESAs should also not be confused with psychiatric service dogs. These types of service dogs can assist an individual with PTSD by interrupting anxiety, reminding them to take medication, or making calls in the event of an emergency. Although ESAs and psychiatric service dogs can both help a person with a mental illness cope, an ESA does so with their presence and companionship while a psychiatric service dog is trained to perform certain jobs.

Unlike ESAs — which can be any species — service animals recognized by the Americans with Disabilities Act (ADA) are limited to specially trained dogs and in some cases, miniature horses. ESAs are not covered under the ADA and do not have the same legal protections in public places. However, both service animals and ESAs are covered by the Fair Housing Act.

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- Condominium Unit-Owner Rights Updated (http://www.myfloridalicense.com/dbpr/lsc/documents/CondominiumUORREnglishMaster4162014.pdf)
- DBPR Guide For Recall of Condo Board Members (http://www.myfloridalicense.com/dbpr/lsc/documents/recallprocedures.pdf)
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Attachment: Docs submitted by Mrs. Gamache at the BOPA (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

An act relating to emotional support animals; creating s. 760.27, F.S.; defining the terms "emotional support animal" and "housing provider"; prohibiting discrimination in housing provided to a person with a disability or a disability-related need for an emotional support animal; specifying that such person may not be required to pay extra compensation for such animal; authorizing a housing provider to request specified information under certain circumstances; restricting such requests; specifying liability for owners of emotional support animals relating to damage done by their emotional support animals; providing applicability; amending s. 413.08, F.S.; providing applicability; amending s. 456.072, F.S.; prohibiting a health care practitioner from providing information regarding a person's need for an emotional support animal without having personal knowledge of that person's need for the animal; amending s. 760.22, F.S.; revising the definition of the term "handicap"; amending ss. 419.001, 760.23, 760.24, 760.25, 760.29, and 760.31, F.S.; replacing the term "handicap" with the term "disability," to conform to changes made by the act; conforming provisions to changes made by the act; creating s. 817.265, F.S.; prohibiting the falsification of information or other fraudulent misrepresentation regarding the use of an emotional support animal; providing penalties; providing an effective date.

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Attachment: F.S.S. 760.27 (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 760.27, Florida Statutes, is created to read:

760.27 Prohibited discrimination in housing provided to persons with a disability or disability-related need for an emotional support animal.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Emotional support animal" means an animal that does not require training to do work, perform tasks, provide assistance, or provide therapeutic emotional support by virtue of its presence which alleviates one or more identified symptoms or effects of a person's disability.

(b) "Housing provider" means any person or entity engaging in conduct covered by the federal Fair Housing Act or s. 504 of the Rehabilitation Act of 1973, including the owner or lessor of a dwelling.

(2) REASONABLE ACCOMMODATION REQUESTS.—To the extent required by federal law, rule, or regulation, it is unlawful to discriminate in the provision of housing to a person with a disability or disability-related need for, and who has or at any time obtains, an emotional support animal. A person with a disability or a disability-related need must, upon the person's request and approval by a housing provider, be allowed to keep such animal in his or her dwelling as a reasonable accommodation in housing, and such person may not be required to pay extra compensation for such animal. Unless otherwise prohibited by federal law, rule, or regulation, a housing provider may:

Attachment: F.S.S. 760.27 (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

(a) Deny a reasonable accommodation request for an emotional support animal if such animal poses a direct threat to the safety or health of others or poses a direct threat of physical damage to the property of others, which threat cannot be reduced or eliminated by another reasonable accommodation.

(b) If a person's disability is not readily apparent, request reliable information that reasonably supports that the person has a disability. Supporting information may include:

1. A determination of disability from any federal, state, or local government agency.

2. Receipt of disability benefits or services from any federal, state, or local government agency.

3. Proof of eligibility for housing assistance or a housing voucher received because of a disability.

4. Information from a health care practitioner, as defined in s. 456.001; a telehealth provider, as defined in s. 456.47; or any other similarly licensed or certified practitioner or provider in good standing with his or her profession's regulatory body in another state but only if such out-of-state practitioner has provided in-person care or services to the tenant on at least one occasion. Such information is reliable if the practitioner or provider has personal knowledge of the person's disability and is acting within the scope of his or her practice to provide the supporting information.

5. Information from any other source that the housing provider reasonably determines to be reliable in accordance with the federal Fair Housing Act and s. 504 of the Rehabilitation Act of 1973.

(c) If a person's disability-related need for an emotional

Attachment: F.S.S. 760.27 (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

support animal is not readily apparent, request reliable information that reasonably supports the person's need for the particular emotional support animal being requested. Supporting information may include:

1. Information identifying the particular assistance or therapeutic emotional support provided by the specific animal from a health care practitioner, as defined in s. 456.001; a telehealth provider, as defined in s. 456.47; or any other similarly licensed or certified practitioner or provider in good standing with his or her profession's regulatory body in another state. Such information is reliable if the practitioner or provider has personal knowledge of the person's disability and is acting within the scope of his or her practice to provide the supporting information.

2. Information from any other source that the housing provider reasonably determines to be reliable in accordance with the federal Fair Housing Act and s. 504 of the Rehabilitation Act of 1973.

(d) If a person requests to keep more than one emotional support animal, request information regarding the specific need for each animal.

(e) Require proof of compliance with state and local requirements for licensing and vaccinating each emotional support animal.

(3) REQUEST LIMITATIONS.—

(a) Notwithstanding the authority to request information under subsection (2), a housing provider may not request information that discloses the diagnosis or severity of a person's disability or any medical records relating to the

Attachment: F.S.S. 760.27 (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

disability. However, a person may disclose such information or medical records to the housing provider at his or her discretion.

(b) A housing provider may develop and make available to persons a routine method for receiving and processing reasonable accommodation requests for emotional support animals; however, a housing provider may not require the use of a specific form or notarized statement, or deny a request solely because a person did not follow the housing provider's routine method.

(c) An emotional support animal registration of any kind, including, but not limited to, an identification card, patch, certificate, or similar registration obtained from the Internet is not, by itself, sufficient information to reliably establish that a person has a disability or a disability-related need for an emotional support animal.

(4) LIABILITY.—A person with a disability or a disability-related need is liable for any damage done to the premises or to another person on the premises by his or her emotional support animal.

(5) APPLICABILITY.—This section does not apply to a service animal as defined in s. 413.08.

Section 2. Paragraph (b) of subsection (6) of section 413.08, Florida Statutes, is amended to read:

413.08 Rights and responsibilities of an individual with a disability; use of a service animal; prohibited discrimination in public employment, public accommodations, and housing accommodations; penalties.—

(6) An individual with a disability is entitled to rent, lease, or purchase, as other members of the general public, any

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Attachment: F.S.S. 760.27 (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

housing accommodations offered for rent, lease, or other compensation in this state, subject to the conditions and limitations established by law and applicable alike to all persons.

(b) An individual with a disability who has a service animal or who obtains a service animal is entitled to full and equal access to all housing accommodations provided for in this section, and such individual ~~a person~~ may not be required to pay extra compensation for such animal. However, such individual ~~a person~~ is liable for any damage done to the premises or to another individual ~~person~~ on the premises by the animal. A housing accommodation may request proof of compliance with vaccination requirements. This paragraph does not apply to an emotional support animal as defined in s. 760.27.

Section 3. Paragraph (e) of subsection (1) of section 419.001, Florida Statutes, is amended to read:

419.001 Site selection of community residential homes.—

(1) For the purposes of this section, the term:

(e) "Resident" means any of the following: a frail elder as defined in s. 429.65; a person who has a disability ~~handicap~~ as defined in s. 760.22(3)(a) ~~s. 760.22(7)(a)~~; a person who has a developmental disability as defined in s. 393.063; a nondangerous person who has a mental illness as defined in s. 394.455; or a child who is found to be dependent as defined in s. 39.01 or s. 984.03, or a child in need of services as defined in s. 984.03 or s. 985.03.

Section 4. Paragraph (pp) is added to subsection (1) of section 456.072, Florida Statutes, to read:

456.072 Grounds for discipline; penalties; enforcement.—

Attachment: F.S.S. 760.27 (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(pp) Providing information, including written documentation, indicating that a person has a disability or supporting a person's need for an emotional support animal under s. 760.27 without personal knowledge of the person's disability or disability-related need for the specific emotional support animal.

Section 5. Present subsections (3) through (6) of section 760.22, Florida Statutes, are renumbered as subsections (4) through (7), respectively, and present subsection (7) of that section is amended, to read:

760.22 Definitions.—As used in ss. 760.20-760.37, the term:

(3) ~~(7)~~ "Disability" ~~"Handicap"~~ means:

(a) A person has a physical or mental impairment which substantially limits one or more major life activities, or he or she has a record of having, or is regarded as having, such physical or mental impairment; or

(b) A person has a developmental disability as defined in s. 393.063.

Section 6. Section 760.23, Florida Statutes, is amended to read:

760.23 Discrimination in the sale or rental of housing and other prohibited practices.—

(1) It is unlawful to refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate for the sale or rental of, or otherwise to make unavailable or deny a dwelling to any person because of race, color, national origin,

Attachment: F.S.S. 760.27 (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

sex, disability ~~handicap~~, familial status, or religion.

(2) It is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, national origin, sex, disability ~~handicap~~, familial status, or religion.

(3) It is unlawful to make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, national origin, sex, disability ~~handicap~~, familial status, or religion or an intention to make any such preference, limitation, or discrimination.

(4) It is unlawful to represent to any person because of race, color, national origin, sex, disability ~~handicap~~, familial status, or religion that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(5) It is unlawful, for profit, to induce or attempt to induce any person to sell or rent any dwelling by a representation regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, national origin, sex, disability ~~handicap~~, familial status, or religion.

(6) The protections afforded under ss. 760.20-760.37 against discrimination on the basis of familial status apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

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(7) It is unlawful to discriminate in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability ~~handicap~~ of:

(a) That buyer or renter;

(b) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or

(c) Any person associated with the buyer or renter.

(8) It is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability ~~handicap~~ of:

(a) That buyer or renter;

(b) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or

(c) Any person associated with the buyer or renter.

(9) For purposes of subsections (7) and (8), discrimination includes:

(a) A refusal to permit, at the expense of the ~~handicapped~~ person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises; or

(b) A refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.

(10) Covered multifamily dwellings as defined herein which are intended for first occupancy after March 13, 1991, shall be

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designed and constructed to have at least one building entrance on an accessible route unless it is impractical to do so because of the terrain or unusual characteristics of the site as determined by commission rule. Such buildings shall also be designed and constructed in such a manner that:

(a) The public use and common use portions of such dwellings are readily accessible to and usable by ~~handicapped~~ persons with disabilities.

(b) All doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by a person in a wheelchair.

(c) All premises within such dwellings contain the following features of adaptive design:

1. An accessible route into and through the dwelling.

2. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.

3. Reinforcements in bathroom walls to allow later installation of grab bars.

4. Usable kitchens and bathrooms such that a person in a wheelchair can maneuver about the space.

(d) Compliance with the appropriate requirements of the American National Standards Institute for buildings and facilities providing accessibility and usability for persons with physical disabilities ~~physically handicapped people~~, commonly cited as ANSI A117.1-1986, suffices to satisfy the requirements of paragraph (c).

State agencies with building construction regulation responsibility or local governments, as appropriate, shall

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review the plans and specifications for the construction of covered multifamily dwellings to determine consistency with the requirements of this subsection.

Section 7. Section 760.24, Florida Statutes, is amended to read:

760.24 Discrimination in the provision of brokerage services.—It is unlawful to deny any person access to, or membership or participation in, any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him or her in the terms or conditions of such access, membership, or participation, on account of race, color, national origin, sex, disability ~~handicap~~, familial status, or religion.

Section 8. Subsection (1) and paragraph (a) of subsection (2) of section 760.25, Florida Statutes, are amended to read:

760.25 Discrimination in the financing of housing or in residential real estate transactions.—

(1) It is unlawful for any bank, building and loan association, insurance company, or other corporation, association, firm, or enterprise the business of which consists in whole or in part of the making of commercial real estate loans to deny a loan or other financial assistance to a person applying for the loan for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him or her in the fixing of the amount, interest rate, duration, or other term or condition of such loan or other financial assistance, because of the race, color, national origin, sex, disability ~~handicap~~, familial

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Attachment: F.S.S. 760.27 (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

status, or religion of such person or of any person associated with him or her in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or because of the race, color, national origin, sex, disability ~~handicap~~, familial status, or religion of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given.

(2)(a) It is unlawful for any person or entity whose business includes engaging in residential real estate transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, national origin, sex, disability ~~handicap~~, familial status, or religion.

Section 9. Paragraph (a) of subsection (1) and paragraph (a) of subsection (5) of section 760.29, Florida Statutes, are amended to read:

760.29 Exemptions.—

(1)(a) Nothing in ss. 760.23, ~~and~~ 760.25, and 760.27 applies to:

1. Any single-family house sold or rented by its owner, provided such private individual owner does not own more than three single-family houses at any one time. In the case of the sale of a single-family house by a private individual owner who does not reside in such house at the time of the sale or who was not the most recent resident of the house prior to the sale, the exemption granted by this paragraph applies only with respect to one sale within any 24-month period. In addition, the bona fide private individual owner shall not own any interest in, nor

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shall there be owned or reserved on his or her behalf, under any express or voluntary agreement, title to, or any right to all or a portion of the proceeds from the sale or rental of, more than three single-family houses at any one time. The sale or rental of any single-family house shall be excepted from the application of ss. 760.20-760.37 only if the house is sold or rented:

a. Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate licensee or such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such licensee or person; and

b. Without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of s. 760.23(3).

Nothing in this provision prohibits the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as is necessary to perfect or transfer the title.

2. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence.

(5) Nothing in ss. 760.20-760.37:

(a) Prohibits a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, national origin,

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sex, disability ~~handicap~~, familial status, or religion.

Section 10. Subsection (5) of section 760.31, Florida Statutes, is amended to read:

760.31 Powers and duties of commission.—The commission shall:

(5) Adopt rules necessary to implement ss. 760.20-760.37 and govern the proceedings of the commission in accordance with chapter 120. Commission rules shall clarify terms used with regard to ~~handicapped~~ accessibility for persons with disabilities, exceptions from accessibility requirements based on terrain or site characteristics, and requirements related to housing for older persons. Commission rules shall specify the fee and the forms and procedures to be used for the registration required by s. 760.29(4)(e).

Section 11. Section 817.265, Florida Statutes, is created to read:

817.265 False or fraudulent proof of need for an emotional support animal.—A person who falsifies information or written documentation, or knowingly provides fraudulent information or written documentation, for an emotional support animal under s. 760.27, or otherwise knowingly and willfully misrepresents himself or herself, through his or her conduct or through a verbal or written notice, as having a disability or disability-related need for an emotional support animal or being otherwise qualified to use an emotional support animal, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. In addition, within 6 months after a conviction under this section, a person must perform 30 hours of community service for an organization that serves persons with

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disabilities or for another entity or organization that the court determines is appropriate.

Section 12. This act shall take effect July 1, 2020.

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Attachment: F.S.S. 760.27 (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

The City of Holly Hill

Joe Forte <jforte@hollyhillfl.org>

Re: Horse watse

1 message

Joe Forte <jforte@hollyhillfl.org> Wed, Apr 27, 2022 at 9:54 AM
To: "Kenneth K. DeForest" <kdeforest@wasteprousa.com>

Thank you for the clarification.
I will have code enforcement notify them to stop placing it at the road for collection. If they question the decision they will probably be instructed to contact waste prop for a determination. Please be sure the answer staff is aware of your interpretation of the contract.
thanks

Joe

Joseph A. Forte, City Manager
City of Holly Hill,
1065 Ridgewood Ave.
Holly Hill, FL. 32117
386-248-9425 Office
386-248-9448 Fax
jforte@hollyhillfl.org
www.hollyhillfl.org

HOLLY HILL
FLORIDA

On Wed, Apr 27, 2022 at 9:38 AM Kenneth K. DeForest <kdeforest@wasteprousa.com> wrote:

> Joe
>
> Good morning.
>
> Our contract with the City does not require us to pick up Biological or Biomedical waste. I think the horse manure does fall under the Biological category. Both types of waste are listed as “Excluded Waste” in the contract (see below).
>
> We do pick up animal waste in the garbage but the quantities are small and incidental to the amount of garbage the residents typically place out for collection. Although horse manure is not specifically excluded from the contract, I believe the intent and the language regarding Bio waste and Excluded waste support not requiring our crews picking up this waste by hand
>
> Let me know if you have any questions
>
> Thanks
>
> Ken

Attachment: Watse Pro Determination on Horse Manure Collection (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

BIOLOGICAL WASTE means waste that causes or has the capability of causing disease or infection including biomedical waste, diseased or dead animals, and other wastes capable of transmitting pathogens to human beings or animals.

BIOMEDICAL WASTE means any solid or liquid waste which may present a threat of infection to human beings, including non-liquid human tissues and body parts; laboratory and veterinary waste which contain human-disease causing agents; discarded disposable sharps; human blood, human blood products and body fluids; and any other materials which have been determined by federal, state, or local regulatory agencies to present a significant risk of infection to persons outside the generating facility.

Ken DeForest

Division Manager

Cell: (386) 631-2109

Office: (386) 788-8890

Fax: (386) 236-4345

We would love a good Google review!

It's easy, first Google Waste Pro/Daytona Beach, then select write a review, and then select 5 Star Rating, and why you like your driver.

From: Joe Forte <jforte@hollyhillfl.org>
Sent: Wednesday, April 27, 2022 9:01 AM
To: Kenneth K. DeForest <kdeforest@wasteprousa.com>
Subject: Horse watse

Ken,

I need some advice.

I am dealing with a code issue in the city with regard to a residential property owner having a horse on his property. One of the complaints is that the property owner is starting to bag the horse manure and set it out for waste pro to collect. Is this in compliance with waste pro's hauling or is a violation of your collection policies?

Joe

Joseph A. Forte, City Manager

Attachment: Watse Pro Determination on Horse Manure Collection (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

City of Holly Hill,

1065 Ridgewood Ave.

Holly Hill, FL. 32117

386-248-9425 Office

386-248-9448 Fax

jforte@hollyhillfl.org

www.hollyhillfl.org

HOLLY HILL
FLORIDA

Florida has a very broad Public Records Law. Virtually all written communications to or from State and Local Officials and employees are public records available to the public and media upon request. The City of Holly Hill's policy does not differentiate between personal and business emails. This means email messages, including your e-mail address and any attachments and information we receive online might be disclosed to any person or media making a public records request. E-mail sent on the City system will be considered public and will only be withheld from disclosure if deemed confidential or exempt pursuant to State Law. If you are an individual whose identifying information is exempt under 119.071, Florida Statutes, please so indicate in your email or other communication. If you have any questions about the Florida public records law refer to Chapter 119 Florida Statutes.

Attachment: Watse Pro Determination on Horse Manure Collection (3747 : Request for a Reasonable Accommodation to the Fair Housing Act)

HOLLY HILL
FLORIDA

STAFF REPORT
CITY OF HOLLY HILL, FLORIDA

City Commission
Ordinance

MEETING DATE: May 24, 2022
FROM: Brian Walker
SUBJECT: FIRST READING - an Ordinance of the City of Holly Hill, Florida, Amending Chapter 78 – General Provisions, Section 78-14 – Definitions, to Add Definitions, and Amend Chapter 114 – Zoning, Article Iii – Supplementary District Regulations, Division 4 – Buildings and Structures, to Add a New Section Titled Shipping Containers, Renumber Existing Sections as Needed, and Add Definitions to Section 114-746 – Specific Terms Defined, of the Land Development Regulations; and Providing for Conflicts, Severability, Applicability, and an Effective Date.
NUMBER: 2022-O-3052
APPLICANT: Brian Walker
PLANNER:

INTRODUCTION

Consider an Ordinance amending Chapter 78 - General Provisions, Section 78-14 - Definitions, to add definitions, and amend Chapter 114 - Zoning, Article III - Supplementary District Regulations, Division 4 - Buildings and Structures, to add a new section titled Shipping Containers, and renumber existing sections as needed, and add definitions to section 114-746 - Specific terms defined, of the Land Development Regulations.

DISCUSSION

Currently, the City's Land Development Code does not specifically allow or disallow the use of shipping containers, in the style of those commonly seen on freight trains and ships and trucks transporting goods, for storage in any zoning district within the City.

However, the City has received several requests to place shipping containers on parcels in both the business and residential zoning districts for permanent storage use. And while there have been few complaints about such containers, the request to use them for permanent storage has been increasing.

It is staff's opinion that the use of shipping containers is a temporary one, in which they are delivered to a site, loaded with goods, and placed on a transport vehicle such as a ship, train or truck, to be transported to another facility. They are not meant to be a permanent storage fixture on sites. Steel shipping containers are built well for their purpose, which is the temporary transport of goods on a ship, rail or truck, and because they are industrial in nature and designed for transport, they are not visually appealing when left on a site for permanent storage use. Such

containers come in all shapes, sizes and conditions, and if left unregulated, staff feels they have the potential to severely detract from the visually appealing commercial and residential areas that the City is trying to realize.

Because the City's code does not provide any specific guidance on shipping containers, or even define what a shipping container is, staff has worked to develop an ordinance that defines the term, and addresses where they can and cannot be placed within the City.

In developing the ordinance, staff reached out to other jurisdictions within Volusia County to get an idea of how shipping containers are treated in those areas. In general, such containers are permitted as permanent structures only in industrial settings.

The proposed ordinance defines a "Shipping Container" aka "Intermodal Container" as a reusable container that is originally, specifically or formerly designed for or used in the packing, shipping, movement, or transportation of freight, articles, goods, or commodities and is also designed for or capable of being mounted or moved on a rail car, truck trailer, or loaded on a ship for intermodal freight transport. Such a container is not a storage shed.

EXHIBIT A - provides an example of the type of shipping containers this ordinance addresses.

The proposed ordinance restricts the use of shipping containers for permanent storage use, to properties zoned CC-1 - Commercial Corridor District, I-1 - Wholesale-Light Industrial and I-2 - Heavy Industrial, zoning districts. "Permanent use" means more than 14 days within a calendar year, except that such containers may be placed on active construction sites for more than 14 days within a calendar year and not be considered permanent storage. The use of shipping containers for permanent storage use would be prohibited in all other straight zoning districts. They would also be prohibited on any properties within the CRA that touch Ridgewood Avenue and/or LPGA Avenue. The CC-1 - Commercial Corridor District, I-1 - Wholesale-Light Industrial, and I-2 - Heavy Industrial, zoning districts were selected as being the most appropriate zoning districts to permit shipping containers, because the purpose and intent of those districts is to provide for those storage and commercial uses which are considered intensive in relation to the other districts.

The proposed ordinance also requires that such containers be placed behind the front plane of a principal structure and shall not be located within the principal rear and side yard setbacks of the CC-1 (Commercial Corridor), I-1 (Wholesale-Light Industrial) and I-2 (Heavy Industrial) zoning districts, except that such containers that have a footprint of less than 250 square feet will be allowed to be placed within 8 feet of the rear property line.

If visible from any rights-of-way, shipping containers shall be completely screened with a decorative 8-foot block masonry stucco finished enclosure or wall with a rounded top or decorative cap finished with stucco and painted to match the colors of the principal structure. The masonry enclosure or wall shall meet or exceed the minimum requirements per the Florida Building Code. In lieu of the aforementioned enclosure or wall, the container can be "skinned," meaning to cover the outside of the container in such a way as to provide an aesthetically pleasing appearance or façade and shall include a roof feature. Skinning does not mean painting. Shipping containers must also be mounted and anchored as required by the Florida Building

Code.

To protect the life, health and safety of the public, the proposed shipping containers shall not be permitted as living quarters or office workspace. No plumbing, electric or air conditioning shall be permitted inside of a shipping container to ensure the unit will not be occupied. The material to be stored in shipping containers is subject to review by the Chief Building Official, and or Fire Chief of Fire Marshal, to ensure the materials stored within them are not hazardous.

These regulations do not apply to City approved planned developments wherein such containers are used to construct unique offices, homes, restaurants, etc. that meet all requirements of the Florida Building Code, as well as all other applicable city, state and federal regulations. An example of such a development is attached titled, Container Development Examples.

Shipping containers that received a permit on any property prior to the adoption date of the Ordinance shall have the ability to remain on the property, but must conform to the screening or "skinning" and roof feature requirements.

Shipping containers that do not have a permit, but that have been on a property continuously for at least one year prior to the adoption date of the ordinance, can remain on the property but must apply for and receive a permit, and conform to the screening or "skinning" and roof feature requirements. The City shall have the right to require that such containers be moved to a less visible area and meet setback requirements. The presence of a container on the property for the year prior to the adoption date of the ordinance must be able to be verified.

All other non-permitted containers must be able to meet all requirements, including zoning, and receive a permit, or be removed from the property within 30 days of the adoption date of the ordinance.

STAFF RECOMMENDATION

Staff recommends adoption of an Ordinance amending Chapter 78 - General Provisions, Section 78-14 - Definitions, to add definitions, and amend Chapter 114 - Zoning, Article III - Supplementary District Regulations, Division 4 - Buildings and Structures, to add a new section titled Shipping Containers, and renumber existing sections as needed, and add definitions to section 114-746 - Specific terms defined, of the Land Development Regulations.

ATTACHMENTS:

- Exhibit A - Examples of Shipping Containers (PDF)
- Container Development Examples (PDF)

Ordinance No. 2022-3052

FIRST READING - AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING CHAPTER 78 – GENERAL PROVISIONS, SECTION 78-14 – DEFINITIONS, TO ADD DEFINITIONS, AND AMEND CHAPTER 114 – ZONING, ARTICLE III – SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 4 – BUILDINGS AND STRUCTURES, TO ADD A NEW SECTION TITLED SHIPPING CONTAINERS, RENUMBER EXISTING SECTIONS AS NEEDED, AND ADD DEFINITIONS TO SECTION 114-746 – SPECIFIC TERMS DEFINED, OF THE LAND DEVELOPMENT REGULATIONS; AND PROVIDING FOR CONFLICTS, SEVERABILITY, APPLICABILITY, AND AN EFFECTIVE DATE.

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING CHAPTER 78 - GENERAL PROVISIONS, SECTION 78-14 - DEFINITIONS, TO ADD DEFINITIONS, AND AMEND CHAPTER 114 - ZONING, ARTICLE III - SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 4 - BUILDINGS AND STRUCTURES, TO ADD A NEW SECTION TITLED SHIPPING CONTAINERS, RENUMBER EXISTING SECTIONS AS NEEDED, AND ADD DEFINITIONS TO SECTION 114-746 - SPECIFIC TERMS DEFINED, OF THE LAND DEVELOPMENT REGULATIONS; AND PROVIDING FOR CONFLICTS, SEVERABILITY, APPLICABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Chapters 166 and 163, *Florida Statutes*, include authority to enact regulations to protect the health, safety, and welfare, and in the interest of the citizens of the City; and

WHEREAS, the City desires continued improvement in the appearance and quality of its residential and commercial areas including the Community Redevelopment District; and

WHEREAS, the City has received request to place shipping containers on residential and commercial property; and

WHEREAS, the City of Holly Hill does not currently contain specific standards for shipping containers in its *Land Development Code*; and

WHEREAS, the City of Holly Hill desires to create specific standards for shipping containers in its *Land Development Code*; and

WHEREAS, the City of Holly Hill has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance including but not limited

to Section 166.041(3)(c)(2), *Florida Statutes*; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, and ~~strikethrough~~ shall constitute deletions to the original text.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF HOLLY HILL, VOLUSIA COUNTY, FLORIDA:

SECTION 1. RECITALS. The above recitals are true and correct and are incorporated herein by reference.

SECTION 2. ADOPTION. The City Commission of Holly Hill hereby amends Chapter 78 - General Provisions, Section 78-14 - Definitions, to add definitions, and amend Chapter 114 - Zoning, Article III - Supplementary District Regulations, Division 4 - Buildings and Structures, to add a new section titled Shipping Containers, renumber existing sections as needed, and add definitions to section 114-746 - Specific terms defined, of the Land Development Regulations, as follows:

Chapter 78 - General Provisions, Section 78-14 - Definitions

"Shipping Container" aka "Intermodal Container" is defined as a reusable container that is originally, specifically or formerly designed for or used in the packing, shipping, movement, or transportation of freight, articles, goods, or commodities and is also designed for or capable of being mounted or moved on a rail car, truck trailer, or loaded on a ship for intermodal freight transport. Such a container is not a shed.

Chapter 114 - Zoning, Article III - Supplementary District Regulations, Division 4 - Buildings and Structures

Sec. 114-742. - Principal buildings and accessory structures.

E. *Shipping Containers aka Intermodal Container.* Shipping containers placed on a parcel for more than 14 days within a calendar year, excluding containers temporarily placed on active construction sites for the duration of active construction only, shall be governed by the following regulations:

1. Shipping containers shall only be permitted within the CC-1 (Commercial Corridor), I-1 (Wholesale-Light Industrial) and I-2 (Heavy Industrial) zoning districts.

2. Shipping containers shall be prohibited on properties that abut Ridgewood or LPGA Avenue within the Community Redevelopment Area.

3. Shipping containers shall only be permitted in conjunction with a principal use, provided that they are recognized as clearly incidental and subordinate to the principal use.

4. Shipping containers shall be mounted and anchored per standards that meet or exceed the requirements per the Florida Building Code.

5. The shipping container shall count toward the maximum lot coverage percent.

6. If visible from any rights-of-way, shipping containers shall require complete screening

with a decorative 8-foot block masonry stucco finished enclosure or wall with a rounded top or decorative cap finished with stucco and painted to match the colors of the principal structure. The masonry enclosure or wall shall meet or exceed the minimum requirements per the Florida Building Code. In lieu of the aforementioned enclosure or wall, the container can be "skinned," meaning to cover the outside of the container in such a way as to provide an aesthetically pleasing appearance or façade, such as stucco, and shall include a roof feature. Skinning does not mean painting.

7. Shipping containers shall be located behind the front plane of a principal structure and shall not be located within the principal rear and side yard setbacks of the CC-1 (Commercial Corridor), I-1 (Wholesale-Light Industrial) and I-2 (Heavy Industrial) zoning districts, except that such containers that have a footprint of less than 250 square feet will be allowed to be placed within 8 feet of the rear property line.

8. Shipping containers shall not be located within any easement.

9. Shipping containers shall be maintained in good condition at all times.

10. Shipping containers shall not be permitted for any advertising purpose and shall be kept clean of all alpha-numeric signage and writing except where markings, labels and placards may be required in accordance with the United States Department of Transportation Emergency Response Guide.

11. Shipping containers shall be used for storage purposes only and shall not be permitted or retrofitted as living quarters or office workspace.

12. No plumbing, electric, or air conditioning shall be permitted inside of a shipping container.

13. Materials stored within shipping containers are subject to review by the Chief Building Official, Fire Chief or Fire Marshal.

14. Shipping containers shall not be rented out or leased.

15. Shipping containers shall be stand-alone steel units without fabrication including but not limited to roofs, except as otherwise required, overhangs, porches, additional doors or windows and internal partitions.

16. In the instance where more than one shipping container may be permitted, they shall not be stacked.

17. Shipping containers shall not occupy required off-street parking spaces, vehicular accesses or drive aisles, pedestrian facilities or landscape areas for a site.

18. Use and placement of shipping containers for any reason shall require a permit.

19. Shipping containers placed within the floodplain must meet all floodplain ordinance and FEMA requirements, and may require an approved site plan prior to permitting.

20. These regulations shall not apply to container developments in City approved planned developments wherein such containers are used to construct unique offices, homes, restaurants, etc. that meet all requirements of the Florida Building Code, as well as all other applicable city, state and federal regulations.

Sec. 114-746. - Specific terms defined.

"Shipping Container" aka "Intermodal Container" is defined as a reusable container that is originally, specifically or formerly designed for or used in the packing, shipping, movement, or transportation of freight, articles, goods, or commodities and is also designed for or capable of being mounted or moved on a rail car, truck trailer, or loaded on a ship for intermodal freight transport. Such a container is not a shed.

SECTION 3. APPLICABILITY. This ordinance shall apply as follows:

Shipping containers that received a permit on any property prior to the adoption date of the Ordinance shall have the ability to remain on the property, but must conform to the screening or "skinning" and roof feature requirements.

Shipping containers that do not have a permit, but that have been on a property continuously for at least one year prior to the adoption date of the ordinance, can remain on the property but must apply for and receive a permit, and conform to the screening or "skinning" and roof feature requirements. The City shall have the right to require that such containers be moved to a less visible area and meet setback requirements. The presence of a container on the property for the year prior to the adoption date of the ordinance must be able to be verified.

All other non-permitted containers must be able to meet all requirements, including zoning, and receive a permit, or be removed from the property within 30 days of the adoption date of the ordinance.

SECTION 4. ADMINISTRATIVE ACTIONS. The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to include, but not be limited to, the adoption of administrative forms, policies, procedures, processes and rules.

SECTION 5. CODIFICATION. The provisions of this Ordinance, including its recitals, shall become and be made a part of the City of Holly Hill's Land Development Regulations and the Sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 1, 4, 5, 6, 7, and 8 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 6. CONFLICTS. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 7. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 8. EFFECTIVE DATE. This Ordinance shall take effect immediately upon enactment.

APPROVED AND AUTHENTICATED on this 24th day of MAY, 2022 for

first reading.

Examples of the type of shipping containers addressed by the Ordinance





CONTAINER DEVELOPMENT EXAMPLES







Attachment: Container Development Examples (2022-O-3052 : Shipping Containers)

HOLLY HILL
FLORIDA

STAFF REPORT
CITY OF HOLLY HILL, FLORIDA

City Commission
Ordinance

MEETING DATE: May 24, 2022
FROM: Brian Walker
SUBJECT: SECOND READING - an Ordinance of the City of Holly Hill, Florida, Approving the Eighth Amendment to Marina Grande Residential Based Mixed Use Planned Unit Development (MPUD) Development Agreement to Add Permitted Uses; Providing for Conflicting Ordinances; Providing for Severability; and Providing an Effective Date.
NUMBER: 2022-O-3051
APPLICANT: Brian Walker
PLANNER:

The following requirement has been added to the Amended Development Agreement between first and second reading:

The restaurant/bistro shall be complete and have received a certificate of completion, prior to any final approval, use, or certificate of completion being issued for any storage uses.

There were no other changes.

Staff report below is as presented at first reading.

INTRODUCTION:

Marina Grande Residential Mixed Use Planned Unit Development (MPUD) Major Amendment - Consider a major amendment to the Marina Grande Residential MPUD as amended, to add permitted uses to the retail spaces.

BACKGROUND:

On November 23, 2004, the City Commission approved the Marina Grande Residential Mixed Use Planned Unit Development (MPUD) Development Agreement, which approved a mixed use planned unit development agreement for the property, which has become known as Marina Grande. Over the years the initial MPUD agreement has been amended several times, to address modifications to the plan and address some procedural issues.

Paragraph D titled, Land Uses Within the PUD, states that the street frontage retail not to exceed

16,000 square feet is provided and that the retail spaces shall be designed so as to encourage pedestrian access and capture vehicular trips from within the development. The street retail spaces are shown in Exhibit "A".

Over the years, the retail spaces have remained vacant and most are not built out. A large reason why the spaces have remained vacant is because of a lack of parking spaces to accommodate the retail uses.

The current owner feels that expanding the uses to include uses with lower parking requirements, would help with regard to successfully getting the retail spaces occupied. There are currently 13,000 square feet of retail space under roof. The owner proposes to convert a maximum of 9,500 square feet of that space to interior private storage. This space would house storage units approximately 25 square feet in size with some being larger at 100 square feet.

The interior storage space would not change the exterior façade and would first be offered to the residents of Marina Grand before being offered or made available to the general public. However, given that there are 486 residential units in the towers, the expectation is that most if not all of the storage units would be rented by residents of Marina Grand. Therefore, this space would generate little if any need for parking. There will be no signage or logo to advertise the personal storage spaces.

The applicant is also requesting to expand the uses to include upscale restaurant, bistro and café uses and office in the remaining 3,500 square feet under roof.

Currently, there are 9 retail spaces. The applicant proposes to use one of the spaces as an office (existing), along with two spaces for upscale restaurant and bistro/café uses and 6 spaces for interior personal storage. The restaurant uses will be at the far end units (north end and south end) and allow outdoor seating, The applicant also requests that they be permitted to glass in the existing open-air spaces under roof for the restaurant uses only. Storage uses will be in the middle of the building "sandwiched" between the restaurant and office uses.

The applicant has not provided renderings or elevations of what the restaurant, bistro or café spaces will look like. However, the applicant has stated that they will be "upscale" in nature. Synonyms for the word "upscale" include the following: deluxe, high-end, exclusive, top-end, prime, superior, upper-class, classy, ritzy. Prior to permit approval for restaurant, bistro or café development, the applicant will be required to submit renderings of the development to demonstrate to the City that such development will meet the intent of the word "upscale." If in the judgment of the City, the proposed restaurant, bistro or café does not meet the intent of the word, "upscale," then the City shall have the right to deny approval of the permit request.

In considering whether or not to approve the applicant's request, the Commission must consider whether or not the request is consistent with the policies of the City's comprehensive plan. The comprehensive plan's Future Land Use Element, under Policy 1.1.2, addresses what can be permitted under the property's Residential-based mixed use land use. The policy reads in part as follows:

Policy 1.1.2 *- Residential-based mixed use - this category is established to encourage better*

integration of residential use and complementary commercial and other non-residential land uses and to provide property owners with expanded opportunities for redevelopment of blighted and/or underutilized parcels. It provides for the integration of residential, commercial, office, and recreational, uses within a project area. Uses may be mixed vertically in a single building, or horizontally, with uses mixed at ground level throughout the project area on separate legal parcels.

This policy references the city's land development regulations, but does not specifically mention interior storage units or restaurant uses. The Board of Planning and Appeals and the City Commission is left to its judgment as to whether or not the proposed office, storage or restaurant uses are consistent with the Residential-based mixed use land use. However, it is staff's judgment that the proposed uses are consistent with the "*complementary commercial and other non-residential land uses" portion of the stated land use.*

RECOMMENDATION:

Staff recommends that the City Commission adopt the Ordinance amending the Marina Grande Residential MPUD (a major amendment), approved on November 23, 2004, to allow office, upscale restaurant, bistro and café uses, along with interior personal storage for the retail spaces only, located at 235 Riverside Drive (Parcel # 5337-34-06-0014).

ATTACHMENTS:

- Exhibit A (PDF)
- Glassed In Areas (PDF)
- Layout of Proposed Uses (PDF)
- Proposed - 8th Amendment to the PD Updated (PDF)

HISTORY:

05/10/22 City Commission APPROVED AT 1ST READING
Next: 05/24/22

Mayor Via opened public participation.

Jim Cameron, Holly Hill and the applicant, Mike Panaggio.

Mayor Via closed public participation.

Ordinance No. 2022-3051

SECOND READING - AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, APPROVING THE EIGHTH AMENDMENT TO MARINA GRANDE RESIDENTIAL BASED MIXED USE PLANNED UNIT DEVELOPMENT (MPUD) DEVELOPMENT AGREEMENT TO ADD PERMITTED USES; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, APPROVING THE EIGHTH AMENDMENT TO MARINA GRANDE RESIDENTIAL BASED MIXED USE PLANNED UNIT DEVELOPMENT (MPUD) DEVELOPMENT AGREEMENT TO ADD PERMITTED USES; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Holly Hill, Volusia County, Florida, has adopted a comprehensive plan pursuant to, and in compliance with 163.3161 et. Seq., Florida Statutes; and

WHEREAS, the City Commission, as authorized by 163.3202, Florida Statutes, has enacted and does enforce the Land Development Regulations, based on, related to, and as a means to implement its adopted comprehensive plan; and

WHEREAS, the City Commission has determined that it is necessary to administratively amend its Land Development Regulations as herein provided in order to more effectively implement its adopted comprehensive plan; and

WHEREAS, the Owner of Marina Grande ground level retail spaces has proposed an Eighth Amendment to the MPUD, to add approved uses.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA:

SECTION 1. The City Commission of the City of Holly Hill hereby approves the Eighth Amendment to Marina Grande Residential Based Mixed Use Planned Unit Development (MPUD) Development Agreement, a true and correct copy attached hereto.

SECTION 2. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any Court, such portion or application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

SECTION 3. That all ordinances made in conflict with this Ordinance are hereby repealed.

SECTION 4. That this Ordinance shall become effective immediately upon its adoption.

APPROVED AND AUTHENTICATED on this 24th day of MAY, 2022 for second and final reading.

EIGHTH AMENDMENT TO
MARINA GRANDE RESIDENTIAL BASED MIXED USE
PLANNED UNIT DEVELOPMENT (MPUD)
DEVELOPMENT AGREEMENT

THIS EIGHTH AMENDMENT TO MARINA GRANDE RESIDENTIAL BASED MIXED USE PLANNED UNIT DEVELOPMENT (MPUD) DEVELOPMENT AGREEMENT (the "Eighth Amendment") is made this _____ day of _____, 2022, by and between **HALIFAX HOLDINGS LLC**, a Florida limited liability company, (the "Owner") and the **CITY OF HOLLY HILL**, a Florida municipal corporation (the "City").

WHEREAS, Holly Hill I Associates, Ltd., a Florida limited partnership (the "Developer") and City entered into that certain Development Agreement dated November 23, 2004, for the development of certain real property as described in said Agreement, as modified by that certain First Amendment to Agreement dated October 31, 2005 (the "First Amendment"); as further modified by that certain Second Amendment to Agreement dated November 15, 2005 (the "Second Amendment"); as further modified by that certain Third Amendment to Agreement dated November 14, 2006 (the "Third Amendment"); as further modified by that certain Fourth

Amendment to Agreement dated February 13, 2007 (the "Fourth Amendment"); and as further modified by that Fifth Amendment to Agreement dated March 27, 2011 (the "Fifth Amendment"); as further modified by that certain Sixth Amendment to Agreement dated March 28, 2017 (the "Sixth Amendment") (collectively the "Agreement") ; as further modified by that certain Seventh Amendment to Agreement dated July 14, 2020 (the "Seventh Amendment") (collectively the "Agreement") ; and

WHEREAS, Owners of 235 Riverside Drive (Parcel # 5337-34-06-0014) (retail spaces) and City wish to further modify certain provisions of the Agreement as detailed below;

NOW, THEREFORE, in consideration of the mutual covenants and promises made herein, the parties hereto covenant and agree to bind themselves as follows:

1. The above recitations are true and correct and incorporated herein by reference.

2. Owners and City mutually agree to the following changes to the retail spaces of the Marina Grand PD as amended: Upscale restaurant, bistro and café uses as well as interior personal storage and the existing Marina Grande sales / administration office, are approved as additional permitted uses in the ground level retail spaces as shown in Exhibit A.

3. The interior storage space shall be limited to a maximum of 9,500 square feet and shall not be located at either of the far ends of the retail spaces - not the north end or south end units, but shall be located in the center of the current retail spaces. The interior storage spaces shall not be advertised with signage or logos of any type and shall first be offered to residents of the Marina Grande.

4. Prior to permits being issued for restaurant, bistro and café uses, the City shall have to right to review renderings and deny approval if in the City's judgement, the restaurant, bistro or café will not meet the intent of the word, "upscale" with such word generally meaning as applied to this Agreement, a restaurant, bistro or café that is deluxe, high-end, exclusive, top-end, prime, superior, upper-class, classy, ritzy.

5. The restaurant, bistro or café uses shall be located at the far ends of the current retail spaces - the north end and south end units and allow outdoor seating. The open areas under roof shall be permitted to be glassed in.

6. The restaurant/bistro shall be complete and have received a certificate of completion, prior to any final approval, use, or certificate of completion being issued for any storage uses.

7. The parties hereto agree that this Eighth Amendment constitutes a major amendment to the Agreement and that all other provisions, conditions, and requirements of the Agreement, remain in full force and effect.

8. Signatures on copies of this Eighth Amendment which are transmitted by facsimile or by electronic mail are counterparts and shall be deemed originals for all purposes.

EXHIBIT A

Retail spaces at 235 Riverside Drive

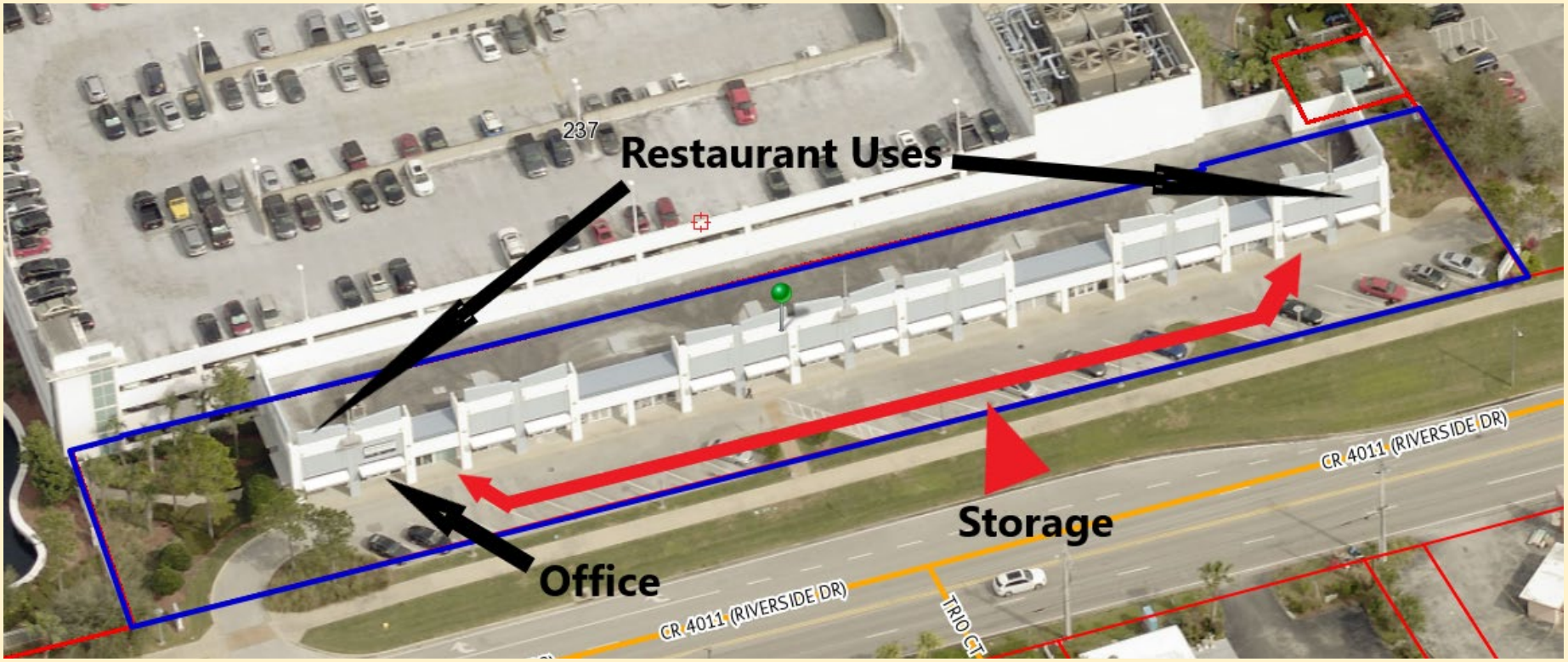


POSSIBLY GLASSED IN AREAS





Layout of Proposed Uses



EIGHTH AMENDMENT TO MARINA GRANDE RESIDENTIAL BASED MIXED USE PLANNED UNIT DEVELOPMENT (MPUD) DEVELOPMENT AGREEMENT

THIS EIGHTH AMENDMENT TO MARINA GRANDE RESIDENTIAL BASED MIXED USE PLANNED UNIT DEVELOPMENT (MPUD) DEVELOPMENT AGREEMENT (the "Eighth Amendment") is made this _____ day of _____, 2022, by and between **HALIFAX HOLDINGS LLC**, a Florida limited liability company, (the "Owner") and the **CITY OF HOLLY HILL**, a Florida municipal corporation (the "City").

WHEREAS, Holly Hill I Associates, Ltd., a Florida limited partnership (the "Developer") and City entered into that certain Development Agreement dated November 23, 2004, for the development of certain real property as described in said Agreement, as modified by that certain First Amendment to Agreement dated October 31, 2005 (the "First Amendment"); as further modified by that certain Second Amendment to Agreement dated November 15, 2005 (the "Second Amendment"); as further modified by that certain Third Amendment to Agreement dated November 14, 2006 (the "Third Amendment"); as further modified by that certain Fourth Amendment to Agreement dated February 13, 2007 (the "Fourth Amendment"); and as further modified by that Fifth Amendment to Agreement dated March 27, 2011 (the "Fifth Amendment"); as further modified by that certain Sixth Amendment to Agreement dated March 28, 2017 (the "Sixth Amendment") (collectively the "Agreement") ; as further modified by that certain Seventh Amendment to Agreement dated July 14, 2020 (the "Seventh Amendment") (collectively the "Agreement") ; and

WHEREAS, Owners of 235 Riverside Drive (Parcel # 5337-34-06-0014) (retail spaces) and City wish to further modify certain provisions of the Agreement as detailed below;

NOW, THEREFORE, in consideration of the mutual covenants and promises made herein, the parties hereto covenant and agree to bind themselves as follows:

1. The above recitations are true and correct and incorporated herein by reference.

2. Owners and City mutually agree to the following changes to the retail spaces of the Marina Grand PD as amended: Upscale restaurant, bistro and café uses as well as interior personal storage and the existing Marina Grande sales / administration office, are approved as additional permitted uses in the ground level retail spaces as shown in Exhibit A.

3. The interior storage space shall be limited to a maximum of 9,500 square feet and shall not be located at either of the far ends of the retail spaces – not the north end or south end units, but shall be located in the center of the current retail spaces. The interior storage spaces shall not be advertised with signage or logos of any type and shall first be offered to residents of the Marina Grande.

4. Prior to permits being issued for restaurant, bistro and café uses, the City shall have to right to review renderings and deny approval if in the City's judgement, the restaurant, bistro or café will

Attachment: Proposed - 8th Amendment to the PD Updated (2022-O-3051 : Eighth Amendment to the Marina Grande MPUD)

not meet the intent of the word, “upscale” with such word generally meaning as applied to this Agreement, a restaurant, bistro or café that is deluxe, high-end, exclusive, top-end, prime, superior, upper-class, classy, ritzy.

5. The restaurant, bistro or café uses shall be located at the far ends of the current retail spaces – the north end and south end units and allow outdoor seating. The open areas under roof shall be permitted to be glassed in.

6. The restaurant/bistro shall be complete and have received a certificate of completion, prior to any final approval, use, or certificate of completion being issued for any storage uses.

7. The parties hereto agree that this Eighth Amendment constitutes a major amendment to the Agreement and that all other provisions, conditions, and requirements of the Agreement, remain in full force and effect.

8. Signatures on copies of this Eighth Amendment which are transmitted by facsimile or by electronic mail are counterparts and shall be deemed originals for all purposes.

NOW THEREFORE, the undersigned parties hereby agree to the above terms and conditions of the Eighth Amendment.

CITY OF HOLLY HILL,
a Florida municipal corporation

By: _____
Chris Via, Mayor

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me, **by means of ☐ physical presence or ☐ online notarization,** this ____ day of _____, 2022, by Chris Via, Mayor, of the City of Holly Hill, on behalf of the City, who is personally known to me or produced _____ as identification.

NOTARY PUBLIC, STATE OF FLORIDA

_____
Notary Signature

_____
Printed Name

Commission No.: _____
My Commission Expires: _____

Attachment: Proposed - 8th Amendment to the PD Updated (2022-O-3051 : Eighth Amendment to the Marina Grande MPUD)

WITNESSES:

HALIFAX HOLDINGS, LLC
A Florida limited liability company

_____

By: _____
Title: _____

_____
(Name Printed or Typed)

_____

_____
(Name Printed or Typed)

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me, **by means of ☐ physical presence or ☐ online notarization,** this ____ day of _____, 2022, by _____, as _____ of Halifax Holdings, LLC, on behalf of the limited liability company, who is personally known to me or produced _____ as identification.

NOTARY PUBLIC, STATE OF FLORIDA

_____
Notary Signature

_____
Printed Name

Commission No.: _____
My Commission Expires: _____

Attachment: Proposed - 8th Amendment to the PD Updated (2022-O-3051 : Eighth Amendment to the Marina Grande MPUD)

WITNESSES:

HALIFAX HOLDINGS, LLC
A Florida limited liability company

_____

By: _____
Title: _____

_____
(Name Printed or Typed)

_____

_____
(Name Printed or Typed)

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me, **by means of ☐ physical presence or ☐ online notarization,** this ____ day of _____, 2022, by _____, as _____ of Halifax Holdings, LLC, on behalf of the limited liability company, who is personally known to me or produced _____ as identification.

NOTARY PUBLIC, STATE OF FLORIDA

_____
Notary Signature

_____
Printed Name

Commission No.: _____
My Commission Expires: _____

Attachment: Proposed - 8th Amendment to the PD Updated (2022-O-3051 : Eighth Amendment to the Marina Grande MPUD)