

ORDINANCE NO. 2570

AN ORDINANCE OF THE CITY OF PLANTATION, FLORIDA, PERTAINING TO THE SUBJECT OF THE CITY'S REASONABLE ACCOMMODATION PROCEDURE FOR PERSONS EXPERIENCNG DISABILITIES TO REQUEST A REASONABLE ACCONMODATION FROM A CITY ORDINANCE, RULE, POLICY, OR PROCEDURE RELATING TO RESIDENTIAL HOUSING; REPEALING THE CURRENT PROCEDURE AND CREATING A NEW PROCEDURE; PROVIDING FOR AN APPLICATION FORM TO BE PREPARED AND MODIFIED FROM TIME TO TINE BY TI--IE PLANNING, ZONING, AND ECONOMIC DEVELOPMENT DEPARTMENT CONSISTENT WITH LAW; PROVIDING WHO MAY APPLY FOR AN ACCOMMODATION, HOW THE APPLICATION WILL BE PROCESSED, HOW INFORMATION WILL BE COLLECTED, HOW A DECISION (DETERNIINATION) ON THE APPLICATION WILL BE MADE, AND HOW ADMINISTRATIVE APPEALS FROM A DETERMINATION CAN BE PURSUED; PROVIDING TIMETABLES FOR THIS PROCEDURE; PREVENTING MULTIPLE OR DIFFERENT APPLICATIONS (OR APPLICATIONS) FROM BEING MADE FOR THE SAME PROPERTY AN APPLICATION IS PENDING; PREVENTING A NEW OR DIFFERENT APPLICATION FROM BEING MADE FOR A PROPERTY WITI--IN A CERTAIN TIME AFTER A DETERMINATION IS MADE FOR A PRIOR APPLICATION; PROVTDING MINIMAL SUBNØSSION REQUIREMENTS FOR AN APPLICATION; PROVIDING FOR INSPECTIONS; PROVIDNG STANDARDS TO GUIDE DISCRETION IN EVALUATING APPLICATIONS; PROVIDING A PERIOD FOR DETERMINATIONS BEFORE THEY EXPIRE AND REQUIRING RECERTIFICATION OF DETERMINATIONS FOR THEM To REMAIN IN EFFECT; PROVIDNG A QUALIFIED AUTOMATIC STAY OF ENFORCING THE ORDINANCE, RULE, POLICY, OR PROCEDURE WHICH IS THE SUBJECT OF A PENDING APPLICATION; PROVIDING FOR VIOLATIONS; PROVIDING OTHER IMPLEMENTING PROVISIONS FOR THE REASONABLE ACCOMMODATION PROCEDURE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

WHEREAS, the City of Plantation wishes to revise its reasonable accommodation procedures; and,

WHEREAS, this Ordinance was reviewed and approved by the Planning and Zoning Board on July 17, 2018.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANTATION, FLORIDA, THAT:

SECTION 1: Section 27-12 of the Code of Ordinances of the City of Plantation entitled "Reasonable Accommodation," is hereby deleted in its entirety:

~~(1) This section implements the policy of the City of Plantation for processing of requests for reasonable accommodation to its residential housing ordinances, rules, policies, and procedures for persons with disabilities as provided by the federal Fair Housing Amendments Act (42 U.S.C. 3601, et seq.) ("FHA") and Title II of the Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.) ("ADA"). For purposes of this section, a "disabled" individual or person is an individual that qualifies as disabled and/or handicapped under the FHA and/or ADA. Any person who is disabled (or qualifying entities) may request a reasonable accommodation with respect to the city's land use or zoning laws, rules, policies, practices and/or procedures pertaining to residential housing as provided by the FHA and the ADA pursuant to the procedures set out in this section.~~

~~(2) A request by an applicant for reasonable accommodation under this section shall be made in writing by completion of a reasonable accommodation request form, which form is maintained by (and shall be submitted to) the Planning, Zoning & Economic Development Department ("PZ&ED"). The reasonable accommodation form shall contain such questions and requests for information as are necessary for processing the reasonable accommodation request. The reasonable accommodation request form shall be substantially in the form attached to Ordinance No. 2547 described in subsection (10) below and on file with the city.~~

~~(3) Should the information provided by the disabled individual to the city include medical information or records, including records indicating the medical condition, diagnosis or medical history of the disabled individual, such individual may, at the time of submitting such medical information, request that the city, to the extent allowed by law, treat such medical information as confidential information of the disabled individual. The city shall thereafter endeavor to provide written notice to the disabled individual, and/or their representative, of any request received by the city for disclosure of the medical information or documentation which the disabled individual has previously requested be treated as confidential by the city. The city will cooperate with the disabled individual, to the extent allowed by law, in actions initiated by such individual to oppose the disclosure of such medical information or documentation, but the city shall have no obligation to initiate, prosecute or pursue any such action, or to incur any legal or other expenses (whether by retention of outside counsel or allocation of internal resources) in connection therewith, and may comply with any judicial order without prior notice to the disabled individual.~~

~~(4) The Chief Administrative Officer, or his/her designee, shall have the authority to consider and act on requests for reasonable accommodation. When a reasonable accommodation request form has been completed and submitted to the PZ&ED, it will be referred to the Chief Administrative Officer, or designee, for review and consideration. The Chief Administrative Officer, or designee, shall issue a written determination within 45 days of the date of receipt of a completed application and may, in accordance with federal law:~~

~~a. Grant the accommodation request;~~

~~b. Grant a portion of the request and deny a portion of the request, and/or impose conditions upon the grant of the request; or~~

~~e. Deny the request, in accordance with federal law.~~

~~Any such denial shall be in writing and shall state the grounds therefor. All written determinations shall give notice of the right to appeal. The notice of determination shall be sent to the requesting party (i.e. the disabled individual or his/her representative) by certified mail, return receipt requested. If reasonably necessary to reach a determination on the request for reasonable accommodation, the Chief Administrative Officer, or designee, may, prior to the end of said 45-day period, request additional information from the requesting party, specifying in sufficient detail what information is required. The requesting party shall have 15 days after the date of the request for additional information to provide the requested information. In the event a request for additional information is made, the 45-day period to issue a written determination shall no longer be applicable, and the Chief Administrative Officer, or designee, shall issue a written determination within 30 days after receipt of the additional information. If the requesting party fails to provide the requested additional information within said 15-day period, the Chief Administrative Officer, or designee, shall issue a written notice advising that the requesting party has failed to timely submit the additional information, and therefore the request for reasonable accommodation shall be deemed abandoned and/or withdrawn and no further action by the city with regard to said reasonable accommodation request shall be required.~~

~~(5) In determining whether the reasonable accommodation request shall be granted or denied, the requesting party shall be required to establish that they are protected under the FHA and/or ADA by demonstrating that they are handicapped or disabled, as defined in the FHA and/or ADA. Although the definition of disability is subject to judicial interpretation, for purposes of this section the disabled individual must show:~~

- ~~a. A physical or mental impairment which substantially limits 1 or more major life activities;~~
 - ~~b. A record of having such impairment; or~~
 - ~~c. That they are regarded as having such impairment.~~
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~~Next, the requesting party will have to demonstrate that the proposed accommodations being sought are reasonable and necessary to afford handicapped/disabled persons equal opportunity to use and enjoy housing. The foregoing (as interpreted by the courts) shall be the basis for a decision upon a reasonable accommodation request made by the Chief Administrative Officer, or designee, or by the Board of Adjustment in the event of an appeal.~~

~~(6) Within 30 days after the Chief Administrative Officer's, or designee's, determination on a reasonable accommodation request is mailed to the requesting party, such applicant may appeal the decision. All appeals shall contain a statement containing sufficient detail of the grounds for the appeal. Appeals shall be to the Board of Adjustment who shall, after public notice and a public hearing, render a determination as soon as reasonably practicable, but in no event later than 60 days after an appeal has been filed.~~

~~(7) There shall be no fee imposed by the city in connection with a request for reasonable accommodation under this section or an appeal of a determination on such request to the Board of Adjustment, and the city shall have no obligation to pay a requesting party's (or an~~

~~appealing party's, as applicable) attorneys' fees or costs in connection with the request, or an appeal.~~

~~(8) While an application for reasonable accommodation, or appeal of a determination of same, is pending before the city, the city will not enforce the subject zoning ordinance, rules, policies, and procedures against the applicant.~~

~~(9) The following general provisions shall be applicable:~~

~~a. The city shall display a notice in the city's public notice bulletin board (and shall maintain copies available for review in the planning, zoning & economic development department, and the city clerk's office), advising the public that disabled individuals (and qualifying entities) may request reasonable accommodation as provided herein.~~

~~b. A disabled individual may apply for a reasonable accommodation on his/her own behalf or may be represented at all stages of the reasonable accommodation process by a person designated by the disabled individual.~~

~~c. The city shall provide such clerical assistance and clerical accommodation as is required pursuant to FHA and ADA in connection with a disabled person's request for reasonable accommodation, so as to ensure the reasonable accommodation process is accessible to persons experiencing disabilities.~~

~~(10) The reasonable accommodation request form is attached hereto as Exhibit "A", and is on file with the City Clerk and the Planning, Zoning & Economic Development Department. The reasonable accommodation form may be amended from time to time by Resolution of the City Council.~~

SECTION 2: Article I of Chapter 27 of the Code of Ordinances of the City of Plantation shall be revised to contain two (2) Divisions, to wit: Division 1, which shall be entitled "Generally," and which shall contain Sections 27-1 through 27-11, and reserved Sections 27-12 through 27-14, and a Division 2, which shall be entitled "Reasonable Accommodation Procedure," and shall be created by Section 3 of this Ordinance.

SECTION 3: There is hereby created Division 2 of Article I of Chapter 27 of the Code of Ordinances of the City of Plantation, entitled, "Reasonable Accommodation Procedure," which shall read as follows:

"Division 2. Reasonable Accommodation Procedure.

Sec. 27-15.1 Intent and Purpose. Definitions. Fees.

(1) This Division sets forth the City's provisions for processing requests for a reasonable accommodation to the City's residential housing ordinances, rules, policies, and procedures for persons with disabilities as provided by the Federal Fair Housing Amendments Act (42 U.S.C. 3601, et seq.) ("FHA") and Title II of the Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.) ("ADA").

- (2) The City has considered recent studies commissioned by the City of Delray Beach (titled, "Delray Beach, Florida: Principles to Guide Zoning for Community Residences for People with Disabilities, " and dated August, 2017), the City of Pompano Beach (titled, "Pompano Beach, Florida: Principles to Guide Zoning for Community Residences for People with Disabilities, " and dated February, 2018), and the City of Fort Lauderdale (titled, "Principles to Guide Zoning for Community Residences for People with Disabilities, " and dated February, 13, 2018), which studies were prepared by Mr. Daniel Lauber, AICP. These studies identify significant public purposes of furthering beneficial health goals for certain classes of disabled residents in terms of facilitating community integration and normalization. The studies, in part, conclude that when recovery residences are clustered in an area, or when a recovery residence is located within six hundred and sixty (660) feet from another recovery residence, there are material increased risks that facilitating community integration and normalization will be adversely affected. The regulations in this Division concerning the rebuttable presumptions which arise when recovery residences locate within a six hundred sixty (660) foot separation standard are designed to further such significant public interests.
- (3) For purposes of this Division, an "Administrative Appeal" is an available administrative remedy for an applicant to seek review of a Chief Administrative Officer Determination in certain cases. The remedy involves a de novo, quasi-judicial review of the application which is conducted by the Special Magistrate in accordance with Subsection 27-15.6 (6) of this Division.
- (4) A "Community Residence" for purposes of this Division is a residential living arrangement of more than three (3) individuals living together in a single dwelling unit, where: (a) not all of such individuals are related to each other by bonds of consanguinity, marriage, legal adoption, or other qualifying circumstances identified in the definition of "Family" in Section 27-1 of this Code; (b) one (1) or more of such individuals is experiencing a disability; (c) all such individuals are living as a single, functional family; and (d) the disabled residents are in need of the mutual support furnished by other residents of the dwelling unit, as well as any incidental support services, if any, provided there. The residents may be self-governing or supervised by a sponsoring entity or its staff, which provides habilitative or rehabilitative services, related to the residents' disabilities. The Community Residence seeks to emulate a biological family to normalize its residents and integrate them into the surrounding community. Its primary purpose is to provide shelter in a family-like environment, and any treatment is incidental. The supportive inter-relationships between residents are an essential component of a Community Residence. A Community Residence which has received and maintained a reasonable accommodation pursuant to this Division shall be considered a residential "Family" use for the purposes of the City's land development regulations, so as to implement the policy considerations of the FHA and ADA. A Community Residence does not include any other group living arrangement for unrelated individuals who are not experiencing a disability; nor does the definition

include residential facilities for prison pre—parolees or sex offenders. Community Residences do not include community residential homes that are defined in Section 419.001(1)(a), Florida Statutes, as amended, and licensed by the Florida Agency for Persons with Disabilities, the Florida Department

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of Elderly Affairs, the Florida Agency for Health Care Administration, or the Florida Department of Children and Families. Community Residences include functional family living arrangements of four (4) or more unrelated individuals that reside in recovery residences which are certified by the credentialing designated under Section 397.487 of the Florida Statutes, as amended, or which are operated in accordance with the Oxford House Manual C.

(5) For purposes of this Division, a "Determination" shall mean a decision on an application for a reasonable accommodation which is made by the Chief Administrative Officer under the provisions of Subsection 27-15.6 (3) of this Code, or by the Special Magistrate under the provisions of Subsection 27-15.7 (4) of this Code. The word "Determine" means to make a Determination.

(5) For purposes of this Division, a "disability" is a physical or mental impairment that substantially limits one or more of an individual's major life activities, impairs an individual's ability to live independently, having a record of such impairment, or being regarded as having such an impairment. People experiencing or possessing a "disability," for purposes of this Division do not include individuals who are currently using alcohol or illegal drugs, or who are currently using legal drugs to which they are addicted, or who constitute a direct threat to the health and safety of others. Except as provided in the preceding sentence, an individual experiencing a "disability" is "disabled," and this will include a person that qualifies as disabled or handicapped under the FHA or ADA, or both.

(7) For purposes of this Division, a "Lot" shall be as defined in Section 27-1 of this Code.

(8) For purposes of this Division a "pending application" shall mean an application for a reasonable accommodation which has been by the Planning, Zoning, and Economic Development (PZED) Department and for which:

(A) the Determination has not been made• or

1b) for Chief Administrative Officer Determinations the Determination has been made and: 1. the thirty (30) day time frame for an Administrative Appeal has not run, or 2. if an Administrative Appeal has been sought, either a Final Order of the Special Magistrate has not been rendered but may still be timely made, or if rendered, such

Final Order remains subject to judicial review (i.e. by Petition for Writ of Certiorari and thereafter a further discretionary, appellate review); or,

(c) for Special Magistrate Determinations, the Determination has been made and remains subject to judicial review f.i.e. by Petition for Writ of Certiorari, and thereafter, further discretionary, appellate review).

(2) For purposes of this Division: a "reasonable accommodation" is a change, exception, or adjustment to an ordinance, rule, policy, or procedure that may be necessary for a person with a disability to have an equal opportunity, to use and enjoy a dwelling, including any public or common-use spaces thereof.

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(10) There shall be no fee imposed by the City in connection with an application for a reasonable accommodation under this Division or for an Administrative Appeal of a Chief Administrative Officer Determination to the Special Magistrate. The City shall have no obligation to pay an applicant's or intervenor's attorneys fees or costs in connection with an application, or an Administrative Appeal, or any other proceeding before the Special Magistrate.

Sec. 27-15.2 Applications for a Reasonable Accommodation.

Q) A request for reasonable accommodation shall be made by completing a reasonable accommodation request form. The form shall be developed and modified from time to time by the PZED Department consistent with law, and shall be maintained by the PZED Department.

(2) When an applicant has completed the form and has included all of the information required, the form and information shall be filed with the PZED Department, and the PZED shall file stamp the form with the date its filing was accepted, and such form and information shall thereafter be considered an application. The reasonable accommodation application shall contain to questions, and any additional information as the applicant may determine is necessary for processing and evaluating the reasonable accommodation request. The reasonable accommodation request form shall be accessible on the City's web-site and accessible at the PZED Department.

(3) The applicant may be the property owner, a tenant, a governmental agency, a parent or guardian of the disabled person, a provider of services to the disabled person, or the disabled person; however, in all cases, if the owner is not the applicant, the property owner shall join in and consent to the application and shall be treated as an "applicant" for the purposes of this Division. In all cases, the applicant and the property owner shall be responsible to comply with the requirements of this Division, and with the conditions or limitations of the Determination.

[4] Should the information provided with a reasonable accommodation request form include medical information or records, including records indicating the medical condition, diagnosis or medical history of a disabled individual, the disabled individual may, at the time such medical information is submitted, request that the City, to the extent allowed by law, treat such medical information as confidential information of the disabled individual. The City shall thereafter endeavor to provide written notice to the disabled individual, and the applicant, of any request received by the City for disclosure of the medical information or documentation which the disabled individual has requested be treated as confidential by the City. The City may cooperate with the disabled individual, to the extent allowed by law, in actions initiated by such individual to oppose the disclosure of such medical information or documentation, but the City shall have no obligation to initiate, prosecute or pursue any such action, or defend against a request for such records, or to incur any legal or other expenses in connection therewith (whether by

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retention of outside counsel or allocation of internal resources), and the City may comply with any records request or judicial order without prior notice to the disabled individual.

(5) Submittal requirements. The application shall be made, in writing, and shall include the following information:

(a) For all applications:

1. Name and contact information of the applicant;
2. Signature of applicant;
3. Date of application;
4. Owner's consent to the application (it shall be presumed that the owner is as indicated by the most recent ad valorem tax roll information concerning the Lot);
5. Information regarding the Lot at which a reasonable accommodation is requested include the address and ad valorem tax folio number or role identification number
6. The specific ordinance, rule, policy, or procedure for which the reasonable accommodation is being requested;
7. The specific relief sought by the application and how such relief serves the special needs of the disability at issue;
8. Information concerning whether the relief requested by the applicant is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy housing;
9. If there is to be an on-site supervisor, staff, or manager serving the premises, provide the name and contact information (phone and email) for each, and whether they will reside on the Lot with the disabled persons(s);
10. Relevant information pertaining to the disability;
11. A description of all installations or modifications which have been made to improvements on the Lot after the date of the Lot's most recent closed building permit or if there are none an Affidavit of No Change executed by the role owner (for purposes of this Paragraph 11, the most recent "closed" building permit is

that which was: a. issued for **improvements** or alterations which have passed all inspections and received a Certificate of Occupancy or a Certificate of Completion or equivalent. and b. either: (i) where only building permits meeting the requirements of a. above were issued prior thereto. or (ii) the building permit meeting the requirements of a. above was the first building permit issued for the Lot in question):

12. A description of all installations and modifications to improvements for the Lot which are proposed to be made before or during the time frame the Determination is to be effective
 13. Any other relevant information pertaining to the Lot, and the information solicited by the reasonable accommodation request form;
 14. An irrevocable confirmation by the applicant and the owner (of the Lot) that the City may inspect the Lot's improvements for compliance with applicable provisions of the Florida Building Code and Florida Fire Prevention Code while the application is pending, and that the City may, after a Determination is issued which grants the accommodation or grants an alternative accommodation, periodically inspect such improvements, after reasonable notice and during reasonable times, for compliance with the terms and conditions of the Determination; and.
 15. The extent of services or programs which will be provided to disabled persons at the Lot, and whether the service provider is licensed or certified.
- 1b) For applications pertaining to or relating to a Community Residence, the following additional submittals or information shall be required:
1. whether the Community Residence operator or owner is currently certified by the credentialing entity designated under Section 397.487 of the Florida Statutes, as amended (or whether the Community Residence is currently certified by the credentialing entity designated under Section 397.487 of the Florida Statutes, as amended);
 2. whether the Community Residence is operated in accordance with the Oxford House Manual 0•
 3. if neither 1. nor 2. are applicable, information concerning:
 - a. the identity, education, licensure, and training of staff servicing the Community Residence:

- b. how the applicant will ensure the home will emulate a biological family;
- c. how the home will be operated to achieve normalization and community integration;
- d. if any property line of the Lot on which the Community Residence is proposed is within Six Hundred Sixty (660) Feet of the nearest property line

of a Lot where an existing Community Residence is located, measured "as the crow flies" so to speak; information the applicant believes is important to consider in rebutting the presumptions which arise under Paragraph 2715.5 of this Division;

- e. how the rules and practices governing the Community Residence's operation will actually protect residents from abuse, exploitation, fraud, theft, insufficient support, use of illegal drugs or alcohol and misuse of prescription medications;
- f. a disclosure of all instances within the two (2) year period preceding the application of any evidence of resident abuse, exploitation, fraud, theft, insufficient support, use of illegal drugs or alcohol, and of prescription medications;
- g. a disclosure of the steps taken to address matters disclosed in f. above, how outcomes are measured for such steps, and the outcomes experienced as a result of such steps; and,
- h. a disclosure of all services related to resident disabilities that are proposed to be provided and where such services will be provided;

4: the maximum number of individuals who will reside in the dwelling unit for the period of time that the Determination is to be effective; and,

5.2 information concerning the relationship between the number of residents and the therapeutic benefits to the Community Residence's disabled residents.

Sec. 27-15.3 Repetitive Applications, Qualified Stay.

- Q) An application for a reasonable accommodation for a Lot shall not be accepted by the PZED Department (including an amendment to a prior application), during any time period;

- (a) in which the Lot has a pending application for a reasonable accommodation: or.
- (b) is within a six (6) month period of time from the later of: 1. the date the most recent prior application for a reasonable accommodation for such Lot was accepted by the PZED Department. or 2. the date the Determination was issued for the most recent prior application for a reasonable accommodation for such Lot (this Paragraph (1) (b) being written to take into consideration the possibility that an application for a reasonable accommodation may be withdrawn, or may be deemed withdrawn or abandoned, prior to a Determination being made).
- C?) The provisions of Subsection (1) shall not be applied to prevent a new application for a reasonable accommodation for the subject Lot which is:

- (a) necessary as a result of new and materially different facts which a reasonable person would conclude were not foreseeable at the time the prior application was filed; and
- (b) which relate to a different ordinance, rule, policy, or uocedure than was (were) at issue in the prior application.

G.) Qualified automatic stay of enforcement.

@ In the absence of either a known specific condition which creates risks to life safety, or a prior Special Magistrate Final Order or a prior Court Final Judgment, after an application for reasonable accommodation is filed with the PZED Department, and during the time frame it is pending before the City the City will take no action to enforce the specific municipal provision, regulation: policy, or condition which is the subject of the application.

(b) The provisions of paragraph | | shall not affect the City's ability to enforce any municipal ordinance, rule, policy, or procedure which is not the subject of the application, or prevent the City from enforcing any federal or state or County law.

Sec. 27-15.4 PZED Advisory Review, other Department Review.

- Q) The PZED Department shall review the application and prepare a report and recommendation. The PZED Department may, request and obtain information from other Departments when processing the application, and may ask other Departments to comment on the application. When the PZED rQort and recommendation is prepared, the application, the PZED report and recommendation, and any, other comment(s) received by the PZED Department from other Departments which are referenced in the PZED Department report and recommendation will be referred to either the Chief Administrative Officer (for Determinations made pursuant to Section 27-15.6 of this Code) or the Special Magistrate (for Determinations made pursuant to Section 27-15.7 of this Code.
- (2) When the matter involves a modification or termination of a Determination (and the effective date thereon which is referred by the Chief Administrative Officer to the Special Magistrate pursuant to Subsection 27-15.9(5) of this Division, the Chief Administrative Officer may direct one or more municipal Department(s) to issue a report and recommendation concerning the circumstances applicable to the matter in light of the criteria identified in Subsection 27-15.9(5) of this Division.

Sec. 27-15.5 Criteria for Evaluation of an Application for a Reasonable Accommodation.

- (1) In evaluating an application for a reasonable accommodation, the PZED Department, and either the Chief Administrative Officer or Special Magistrate, as applicable shall consider:
- (a) whether the requested accommodation is requested by or on the behalf of one or more individuals with a disability protected under federal or state law;
 - (b) whether an accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy housing;
 - (g) the extent to which the relief requested would serve the special needs of the disability at issue;
 - (d) the physical attributes and conditions of the subject Lot and structures and improvements thereon, and whether they are compliant with applicable provisions of the Florida Building Code and Florida Fire Prevention Code;
 - (e) whether the type of accommodation requested or the objective the accommodation seeks will foreseeably impose an undue financial or administrative burden on the City (to determine these burdens, the City may consider: 1. prior experience with the applicant or operator, or property owner, or some or all of the foregoing, 2. prior experience at the Lot, 3. prior experience at other properties for which similar types of requests have been approved, 4. the City's financial resources, and 5. the City's personnel time and effort expended in the processes and procedures outlined in this Division in ensuring the conditions and limitations of Determinations are followed, in providing services to the Lot and to other property where like Determinations have been issued, and in enforcing violations of law which relate to the Lot and to other property where like Determinations have been issued);
 - (f) any evidence that the accommodation would result in a threat to the health or safety of individuals, or damage;
 - (g) the extent to which the accommodation may impair the policy interests served by the ordinance, rule, policy, or procedure affected by the application;
 - (h) the extent to which a more tailored exception, modification, or alternative accommodation to the applicable ordinance, rule, policy, or procedure would affect the purposes served by the requested reasonable accommodation without the same degree of 1. foreseeable, accompanying burdens, or 2. impact to the policy considerations underlying the ordinance, rule, policy, or procedure in question, or 3. both 1. and 2.;

G) the extent to which the application, if granted, may foreseeably result in violations of other law relating to the premises (e.g. parking):

(j) any specific request or directive from any federal or state agency which has been made or received concerning the application; and,

(k) information provided by the applicant on the reasonable accommodation request form and information provided by the PLED Department and any other Department concerning the completed application. Information provided by City Departments may include information concerning a portion of the City to which certain uniform regulations and requirements or various combinations thereof apply, under the provisions of the comprehensive zoning ordinance, as such portion of the City surrounding the Lot is demarcated in the professional opinion of the PZED Director (the "Surrounding District"). Information provided by City Departments may include, but not be limited to, zoning and land use information, police incident data, fire rescue data, code enforcement data, false burglar or medical alarm data, census data, on-site and off-site physical conditions, photographs and aerials of subject Lot and of the Surrounding District, Surrounding District information and data (i.e. traffic routes that show the boundaries of the Surrounding District, interior street patterns, significant physical features, both natural and man-made [such as a canals and lakes], population data, school locations, park and recreation amenities, and municipal activity and projects), and any other relevant information concerning the application or issues relevant to the Determination of the application for a reasonable accommodation.

(2) When the application for a reasonable accommodation concerns or involves a Community Residence, in addition to the factors set forth in Subsection (1) above, the PZED Department shall evaluate the following additional criteria, and the Chief Administrative Officer and Special Magistrate shall not grant the application or an alternative application unless he or she reasonably concludes that the criteria in (a), (b), and (c) below are met:

(a) the Community Residence:

1. is one whose owner or is certified by the credentialing entity designated under Section 397.487 of the Florida Statutes as amended (or that the Community Residence is certified by the credentialing entity designated under Section 397.487 of the Florida Statutes, as amended), or,

2. is operated in accordance with the Oxford House Manual O. or

3. where neither 1. nor 2. is applicable:

- a. will be operated in a manner effectively similar to the Community Residences described 1. or 2..
- b. Staff, if any, will be adequately trained,
- c. will emulate a biological family.
- d. will be operated to achieve normalization and community integration,
- e. rules and practices governing how the home is operated will protect residents from abuse, exploitation, frauds theft, insungient support, use of illegal drugs or alcohol, and misuse of prescription medications; and

(b) the proposed Community Residence will not interfere with the normalization and community integration of the residents of any existing Community Residence and that the presence of other nearby Community Residences will not interfere with the normalization and community integration of the residents of the proposed Community Residence fin this regard. if any property line of the Lot where a proposed Community Residence is to be located is within Six Hundred Sixty (66()) Feet of the nearest line of a Lot where an existmg Community Residence is situate. measured "as the crow flies" so to speak, rebuttable presumptions shall arise that the proposed Community Residence's location will interfere with the normalization and community integration of the residents of such existing Community Residence, and that the location of the existing Community Residence will interfere with the normalization and community integration of the residents of the proposed Community Residence - - which rebuttable presumptions shall require clear and convincing evidence to overcome); and

(g) the primary function and use of the propQsed Community Residence is residential, and any services are merely incidental to the residential use of the Lot.

Sec. 27-15.6 Chief Administrative Officer Determinations.

- (1) The Chief Administrative Officer shall have the authority to consider and act on all a lications for a reasonable accommodatio exc t for an a lication for a Communit v Residence in which more than six (6) persons will reside. Determinations of applications which can not be authorized by the Chief Administrative Officer under the provisions of this Subsection shall be made by the Special Magistrate under Section 27-15.7 of this Code.
- (2) The Chief Administrative Officer may choose to refer an application for a reasonable accommodation which he or she is authorized to consider and Determine to the Special Magistrate under Section 27-15.7 of this Code, and when such referral is made, the Determination and judicial review of same shall be governed by Section 27-15.7 of this

Code, and the Administrative Appeal procedure set forth in Subsection (6) below shall not be available.

(3) For those applications considered and Determined by the Chief Administrative Officer, he or she shall issue a written Determination after considering the criteria specified in Section 27-15.5 of this Code and may.

(a) grant the accommodation request, with or without conditions;

(b) grant a portion of the request and deny a portion of the request (which shall be an alternative reasonable accommodation), with or without conditions; or @ deny the request.

Any Determination under (3)(b) or (3)(c) above shall state the grounds therefor.

(4) All Chief Administrative Officer Determinations shall give notice of the applicant's right to an Administrative Appeal to the Special Magistrate under the provisions of Subsection (6) below. The Chief Administrative Officer's Determination shall be sent to the City Clerk who shall note the Determination's rendition date (the date the Clerk enters the Determination in the Public Record). The City Clerk shall then transmit the Determination to the PZED Department. The Determination shall then be sent by the PZED Department to the applicant by certified mail.

E) Except as provided in this Subsection, the Chief Administrative Officer shall issue a Determination within forty-five (45) days of the date the complete application was stamped as filed by the PZED Department. The issue date shall be the date the Determination is signed by the Chief Administrative Officer. The issue date shall not be construed to be the rendition date for purposes of this Section. If reasonably necessary to make a decision, the Chief Administrative Officer may, prior to the end of such forty-five (45) day period, request additional information from the applicant or from any City Department, specifying in sufficient detail what information is required. The applicant, or Department, or both, as the case may be, shall have fifteen (15) days after the date of the request for additional information to provide the requested information to the Chief Administrative Officer. In the event a request for additional information is made, the forty-five (45) day period to issue a Determination shall no longer be applicable, and the Chief Administrative Officer shall issue a Determination within thirty (30) days after receipt of the additional information. If the applicant fails to provide the requested additional information within said fifteen (15) day period, the application for reasonable accommodation shall be deemed abandoned and withdrawn; and the Chief Administrative Officer shall advise the PZED Department to notify the applicant by First Class Mail that the application has been deemed abandoned and withdrawn.

6) Administrative Appeal of Chief Administrative Officer Determinations, Judicial Review.

- (a) In the event an applicant disagrees with a Chief Administrative Officer Determination and desiresto seek review thereof, the applicant shall file a Notice of Appeal with the City Clerk within thirty (30.) days of the date the Determination is rendered. The Determination shall be rendered the date the City Clerk certifies that the Determination has been entered into the City's record% The Notice of Appeal shall describe in sufficient detail the grounds of the Appeal (i.e. the Determination's error and the relief sought).
- (b) The City Clerk shall forward to the Special Magistrate the record of the proceedings which shall consist of a copy of the application, a copy of the PZED Department report and recommendation, a copy of any Department comment requested by the PZED Department in its report and recommendation, as well as any information submitted by the applicant or by another Department in response to a request for additional information made by the Chief Administrative Officer prior to the Determination, the Determination, and the Notice of Appeal.

Cc) The Special Magistrate shall conduct a quasi-judicial hearing on the Administrative Appeal. All testimony shall be sworn and cross-examination shall be permitted. Witnesses who refuse to be cross-examined may have their testimony stricken from the proceedings. Formal Rules of evidence shall not apply, but fundamental rights of due process shall be observed and shall govern the proceedings. The Special Magistrate shall allow the applicant an opportunity to present evidence and argument on the matter and shall also allow the City and any intervenor to present evidence and argument. The Special Magistrate shall rule on all Motions to Intervene at the onset of the quasi-judicial hearing, or at an earlier hearing established for such purpose. The Special Magistrate may consider testimony from members of the public at the hearing. The Special Magistrate shall have the power to impose supplemental rules to govern the proceedings, to issue subpoenas for evidence, to take testimony, under oath, and issue rulings. In the Administrative Appeal, the applicant shall have the burden of persuasion but the preponderance of evidence (except as to rebutting the presumptions created by Section _____ of this Code, which require clear and convincing evidence). and shall have the burden of going forward with the evidence. The City may be represented by any City Department, or by an attorney. The applicant and any intervenor may be represented by an attorney if they desire.

Cd) The scope of review of the Special Magistrate shall be de novo, and the Special Magistrate may grant the application with or without conditions, grant an alternative accommodation with or without conditions, or deny the accommodation. The Special Magistrate shall consider the factors specified in Section 27-15.5 of this Code, the record, and the evidence presented at the hearing in making his or her decision. The decision of the Special Magistrate on an Administrative Appeal shall be evidenced by a Final Order, and the Clerk of the Special Magistrate shall send a copy of the Final Order to the applicant, and any intervenor as soon as possible after rendition by First Class Mail.

[e) The City shall provide notice of the quasi-judicial hearing concerning the Administrative Appeal to the applicant and any intervenors by certified mail, at least fourteen (14) days prior to the quasi-judicial hearing. The City shall also provide notice of the quasi-judicial hearing, by First Class Mail, to all property owners within Three Hundred Feet (300') of the Lot for which the reasonable accommodation is requested, as their names and addresses appear on the most recent County real property ad valorem tax roll, at least fourteen (14) prior to the quasi-judicial hearing. The notice of the quasi-judicial hearing shall be posted outside of City Hall for at least three (3) days prior to the quasi-judicial hearing. The Special Magistrate shall render a decision on the Administrative Appeal as soon as reasonably practicable, but in any event, no later than sixty (60) days after the Notice of Appeal is filed, unless the applicant and City agree to an extension of such time period. In the event the Special Magistrate fails to meet the required timetable, the Determination shall

be deemed quashed, and shall be returned to the Chief Administrative Officer to make another, different Determination within a thirty (30) day timeframe.

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CD The City: the applicant, or an intervenor may file a Motion for a re-hearing of the matter within ten (10) days of the date the Magistrate Final Order is rendered. The Magistrate shall not be required to conduct a hearing to determine whether or not to grant the Motion. The filing of a Motion for a re-hearing shall not toll or affect the time periods within which the applicant or an intervenor is required to seek judicial review as provided in the next paragraph (g).

(g) In the event the applicant or an intervenor, or both, disagrees with a Special Magistrate Final Order on an Administrative Appeal, he or she may seek judicial review by filing a Petition for Writ of Certiorari in the Circuit Court of the 17th Judicial Circuit in and for Broward County Florida within thirty (30) days of the Final Order's rendition. The Final Order shall be rendered the date the Code Enforcement Clerk certifies that the Final Order has been entered into the City's public record.



Sec. 27-15.7 Special Magistrate Determinations, and Proceedings to Modify or Terminate Determinations.

Q) Determinations of applications for a reasonable accommodation.

(a) The Special Magistrate shall have jurisdiction to consider and Determine all applications for a reasonable accommodation which the City Chief Administrative Officer is not authorized to Determine.

(b) The Special Magistrate shall have jurisdiction to consider all applications for a reasonable accommodation which are referred to the Special Magistrate by the Chief Administrative Officer pursuant to Subsection 27-15.6(2) of this Division.

(c) Within thirty (30) days of the date the PZED Department accepted the application, the PZED Department shall forward to the Clerk of the Special Magistrate a copy of the application, a copy of the PZED Department report and recommendation of any Department comment referenced by the PZED Department in its report and recommendation, as well as any information submitted by the applicant.

cd) The Clerk of the Special Magistrate shall open a Case file, assign a Case Number to the Case file, and note the date the Case file was opened. In conjunction with the City Clerk* the Clerk of the Special Magistrate shall set the matter for a Special Magistrate hearing. The Clerk of the Special Magistrate and City Clerk will cooperate to ensure that the hearing is advertised as required by this Subsection (l).

@ The caption of the Case shall be as follows:

SPECIAL MAGISTRATE
CITY OF PLANTATION, FLORIDA

Case No. _____

CE In re:

Application for a
Reasonable
Accommodation for
Property having a Street
Address of:

CD The City shall provide notice of the quasi-judicial hearing concerning the Special Magistrate Determinations to the applicant, the property owner (who shall be treated as an applicant for purposes of this Division as identified by the most recent ad valorem tax roll), and any known intervenors by certified mail, at least fourteen (14) days prior to the quasi-judicial hearing. The City shall also provide notice of the quasi-judicial hearing, by First Class Mail, to all property owners within Three Hundred Feet (300') of the Lot for which the reasonable accommodation is requested, as their names and addresses appear on the most recent County real property ad valorem tax roll, at least fourteen (14) days prior to the quasi-judicial hearing. The notice of the quasi-judicial hearing shall be posted outside of City Hall for at least three (3) days prior to the quasi-judicial hearing.

(g) The Special Magistrate shall conduct a quasi-judicial hearing on the application. All testimony shall be sworn and cross-examination shall be permitted. Witnesses who refuse to be cross-examined may have their testimony stricken from the proceedings. Formal Rules of evidence shall not apply, but fundamental rights of due process shall be observed and shall govern the proceedings. The Special Magistrate shall allow the applicant an opportunity to present evidence and argument on the matter and shall also allow the City and any intervenor to present evidence and argument. The Special Magistrate shall rule on all Motions to Intervene at the onset of the quasi-judicial hearing, or at an earlier hearing established for such purpose. The Special Magistrate may consider testimony from members of the public at the hearing. The Special Magistrate shall have the power to impose supplemental rules to govern the proceedings, to conduct preliminary hearings, to issue subpoenas for evidence, to take testimony, under oath and issue rulings. In these proceedings, the applicant shall have the burden of persuasion by the preponderance of evidence (except as to rebutting the presumption created by Section 27-15.5(2)(b) of this

Code, which requires clear and convincing evidence), and shall have the burden of going forward with the evidence. The City may be represented in the proceedings by any City Department, or by an attorney. The applicant and any intervenors may be represented by an attorney if they desire.

(h) The Special Magistrate may the application with or without conditions, grant an alternative accommodation with or without conditions, or deny the application. The Special Magistrate shall consider the factors specified in Section 27-15.5 of this Code, the PZED report and recommendations (which may include information from other Departments), the recorda and the evidence presented at the hearing in making his or her Determination. The Determination of the Special Magistrate shall be evidenced by a Final Order, and the Clerk of the Special Magistrate shall send a copy of the Final Order to the applicant, and any intervenor as soon as possible after rendition by First Class Mail.

(i) The Special Magistrate shall render a decision on the application as soon as reasonably practicable, but in any event, no later than sixty (60) days after the Case is opened by the Clerk of the Magistrate, unless the applicant, City, or an intervenor demonstrates that undue prejudice would result, in which case the Special Magistrate may grant a reasonable extension to the sixty (60) day timeframe, provided such extension does not to exceed an additional thirty (30) days. In the event the Special Magistrate fails to meet the required timetable within which to render a Determination, the application shall be deemed granted.

(j) The City, the applicant, or an intervenor may file a Motion for a re-hearing of the matter within ten (10) days of the date the Magistrate Final Order is rendered. The Magistrate shall not be required to conduct a hearing to determine whether or not to grant the Motion. The filing of a Motion for a re-hearing shall not toll or affect the time periods within which the applicant or an intervenor is required to seek judicial review as provided in the next paragraph (k).

(k) In the event the applicant, or an intervenor, or both, disagrees with a Special Magistrate Determination, he or she may seek judicial review by filing a Petition for Writ of Certiorari in the Circuit Court of the 17th Judicial Circuit in and for Broward County Florida within thirty (30) days of the Final Order's rendition. The Final Order shall be rendered the date the Code Enforcement Clerk certifies that the Final Order has been entered into the City's public record.

12) Special Magistrate proceedings to modify or terminate a Determination.

a. The Special Magistrate shall have jurisdiction to consider a modification or termination of a Determination (and the effective date thereof), when the Chief Administrative Officer refers such a matter to the Clerk of the Special Magistrate pursuant to Subsection 27-15.9(5) of this Division.

- b. Upon receiving a referral, the Clerk of the Special Magistrate shall open a Case file, assign a Case Number to the Case file, and note the date the Case file was opened. The Clerk of the Special Magistrate shall also advise any Department which has been requested by the Chief Administrative Officer to provide a report and recommendation of the date the case file was opened.
- c. The caption of the Case shall be as follows:

SPECIAL MAGISTRATE
CITY OF PLANTATION, FLORIDA

Case No. CE

In re:

Modification or Termination of a
Reasonable Accommodation for
Property having a Street Address
of:

- d. Within thirty (30) days of the date the case was opened, any Department which has been so directed by the Chief Administrative Officer shall forward to the Clerk of the Special Magistrate a copy of its report and recommendation.
- e. In conjunction with the City Clerk, the Clerk of the Special Magistrate shall set the matter for a Special Magistrate hearing. The Clerk of the Special Magistrate and City Clerk will cooperate to ensure that the hearing is advertised as required by this Subsection (21)
- f. The City shall post a notice of the hearing on the Lot for which the reasonable accommodation at issue was granted (the "subject Lot"). at least ten (10) days prior to the quasi-judicial hearing. The City shall also provide notice of the Special Magistrate quasi-judicial hearing concerning the case to the applicant of the reasonable accommodation at issue (as their name and address appeared on the application), and any known intervenors by certified mail, at least fourteen (14) days, prior to the quasi-judicial hearing. The City shall also provide notice of the quasi-judicial hearing, by First Class Mail, to all property owners within Three Hundred Feet (300') of the subject Lot, as their names and addresses appear on the most recent County real property ad valorem tax roll, at least fourteen (14) days prior to the quasi-judicial hearing. The notice of the quasi-judicial hearing shall also be posted outside of City Hall for at least three (3) days prior to the quasi-judicial hearing.

- g. The Special Magistrate shall conduct a quasi-judicial hearing on the matter. All testimony shall be sworn and cross-examination shall be permitted. Witnesses who refuse to be cross-examined may have their testimony stricken from the proceedings. Formal Rules of evidence shall not apply, but fundamental rights of due process shall be observed and shall govern the proceedings. The Special Magistrate shall allow the applicant an opportunity to present evidence and argument on the matter and shall also allow the City and any intervenor to present evidence and argument. The Special Magistrate shall rule on all Motions to Intervene at the onset of the quasi-judicial hearing, or at an earlier hearing established for such. The Special Magistrate may consider testimony from members of the public at the hearing. The Special Magistrate shall have the power to impose supplemental rules to govern the proceedings, to conduct preliminary hearings, to issue subpoenas for evidence, to take testimony: under oath, and issue rulings. In these proceedings, the City shall have the burden of persuasion by the preponderance of evidence, and shall have the burden of going forward with the evidence. The City may be represented in the proceedings by any City Department, or by an attorney. The applicant and any intervenors may be represented by an attorney if they desire.
- (h) The Special Magistrate may modify or terminate the Determination. The Special Magistrate shall consider the report and recommendations of any Department, the record, the evidence presented at the hearing, and the criteria set forth in Subsection 27-15.9 (5) in this Division. The decision of the Special Magistrate shall be evidenced by a Final Order, and the Clerk of the Special Magistrate shall send a copy of the Final Order to the applicant, and any intervenor as soon as possible after rendition by First Class Mail.
- (i) The Special Magistrate shall enter a Final Order on the matter as soon as reasonably practicable, but in any event, no later than sixty (60) days after the Case is opened by the Clerk of the Magistrate, unless the applicant, City, or an intervenor demonstrates that undue prejudice would result, in which case the Special Magistrate may grant a reasonable extension to the sixty (60) day timeframe, provided such extension does not to exceed an additional thirty (30) days. In the event the Special Magistrate fails to meet the required timetable, the Determination which is the subject of the proceedings shall be deemed to have not been modified or terminated.
- (j) The City, the applicant, or an intervenor may file a Motion for a re-hearing of the matter within ten (10) days of the date the Magistrate Final Order is rendered. The Magistrate shall not be required to conduct a hearing to determine whether or not to grant the Motion. The filing of a Motion for a re-hearing shall not toll or otherwise affect the time period within which the applicant or an intervenor is required seek judicial review as provided in the next paragraph (k).
- (k) In the event the applicant, or an intervenor, or both, disagrees with a Special Magistrate Final Order, he or she may seek judicial review by filing a Petition for

Writ of Certiorari in the Circuit Court of the 17th Judicial Circuit in and for Broward County Florida within thirty (30) days of the Final Order's rendition. The Final Order shall be entered the date it is signed by the Special Magistrate, and it shall be deemed rendered the date the Code Enforcement Clerk certifies that the Final Order has been entered into the City's public record.

Sec. 27-15.8 Expiration Recertification of Determination.

- [1] For purposes of establishing the initial time period within which a Determination shall remain viable before it expires unless it is recertified, the following schedule is established:
- (a) applications filed and accepted by the PZED Department on or between July 15 of a calendar year and January 14 of the next succeeding calendar year. any granted Determination (for an accommodation or alternative accommodation) shall expire on the September 30 which next succeeds the January 14 date, unless such Determination is recertified as provided in Subsection (2).
- (b) for applications filed and accepted by the PZED Department on or between January 15 of a calendar year and July 14 the same calendar year, any granted Determination (for an accommodation or an alternate accommodation) shall expire on September 30 of the next ensuing calendar year, unless such Determination is recertified as provided in Subsection (2).
- [2] For a viable Determination to be recertified, a new application for a reasonable accommodation shall need to be accepted by the PZED Department on or between April 30 and July 1 of the calendar year in which the Determination shall expire, and a new Determination issued by September 1 of such calendar year. In the event this occurs, the Determination shall be considered "recertified" and shall be valid until September 30 of the next ensuing calendar year, at which time it shall expire, unless the Determination receives another recertification pursuant to the timetable set forth in this Subsection (2). There shall be no limit on the number of times a Determination can be recertified.
- [3] Failure to recertify a Determination shall result in the expiration of the approved reasonable accommodation.
- [4] Recertification requests shall follow the same requirements as the initial request for a reasonable accommodation as set forth in this Division.

Sec. 27-15.9 Violations Penalties and Modification or Termination.

- {J} Any property owner, operator, or other person who may be an applicant under this Division who falsifies or conceals material information in such applicant's application

for reasonable accommodation or any recertification has committed a violation of this Code and is subject to the penalties set forth in this Section.

(2) Any property owner, operator, or other person who may be an applicant under this Division who causes, permits, facilitates, aids, or abets any violation of any provision of the granted reasonable accommodation or granted alternative reasonable accommodation has committed a violation of this Code and is subject to the penalties set forth in this Section.

G.) Any property owner, operator, or other person who may be an applicant under this Division who fails to perform any obligation, act or duty as contemplated in this Division or as set forth in the granted reasonable accommodation or granted alternative reasonable accommodation has committed a violation of this Code and is subject to the penalties set forth in this Section.

(4) The penalties and prosecution methods for a violation of the Code as specified in this Section may be by any of the following:

G) the City may prosecute violations under Chapter 6, Article I, General Code Enforcement Procedure, and subject the violator the penalties prescribed thereunder.

(b) the City may prosecute violation of this Division under Chapter 6, Article II, Supplemental Code Enforcement Procedure, Civil Violation Tickets ("Civil Citation"), where:

1. for the first Civil Citation, the civil penalty shall be One Hundred Dollars (\$100). If the violator chooses to contest the Civil Citation, the maximum penalty shall be One Hundred Fifty Dollars (\$150) per Civil Citation.

2: for a repeat violation, the civil penalty shall be Two Hundred Dollars (\$200). If the violator chooses to contest the Civil Citation, the maximum penalty shall be Two Hundred Fifty Dollars (\$250) per Civil Citation.

(c) the City may prosecute a violation of this Code under Section 1-13, and if desired, Section 1-14 of this Code.

(5) (a) If at any time during the period for which the Determination is effective it is determined by the Chief Administrative Officer that: 1. a material statement contained in the application, or material information provided by the applicant, was false when provided, or 2. the applicant omitted material information or failed to disclose material information, the omission of which would cause a reasonable person to conclude that the application was misleading, or 3. that applicant has on more than two (2) occasions failed to perform any obligation, act or duty as contemplated in this Division or as set forth in a granted Determination, or 4. some or all of 1. — 3., the

Determination shall be subject to modification or termination. The Chief Administrative Officer may refer all such matters to the Clerk of the Special Magistrate for scheduling of a hearing pursuant to procedures of Subsection 27-15.7

(b) If such a referral is made, the Chief Administrative Officer may determine whether any Department should be directed to furnish a report and recommendation to the Special Magistrate as provided by Subsection 27-15.4 (2) of this Division, and if such a direction is made, he or she shall advise the Clerk of the Special Magistrate.

@ In the event the Determination is modified by the Special Magistrate, the modified Determination shall be considered the "viable Determination" for purposes of recertification under Subsection 27-15.8(2) of this Division, regardless of any intervening applications for recertification and any approvals thereof.

Cd) In the event the Determination is terminated by the Special Magistrate, a new application for the same Determination shall not be accepted by the City for a period

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of one (1) year, and the termination shall terminate all intervening applications for recertification of such Determination and any approvals thereof.

(6) In addition to the remedies specified in this Section to address violations, the City may exercise and seek any, and all remedies provided by law.

Sec. 27-15.10 Other General and Implementing Provisions.

CT) The City shall display a notice in the City's public notice bulletin board (and shall maintain copies of the notice available for review in the Planning Department and the City Clerk's Office), advising the public that disabled individuals (and qualifying persons or entities) may request reasonable accommodation as provided herein. The City will also display a notice on its website.

[2) The City shall provide such clerical assistance and clerical accommodation as may be required pursuant to FHA and ADA in connection with a disabled person's request for reasonable accommodation so as to ensure the reasonable accommodation process is accessible to persons experiencing disabilities.

(3) All Determinations a reasonable accommodation or alternative accommodation prior to June 5, 2018 shall expire on September 30, 2019.

[4) All owners of residential real property shall have until September 30, 2018 to apply for a reasonable accommodation where:

(a) the use of such property on (the effective date of this Ordinance) is in violation of the City Code provisions for "Family" use (the definition of which in Sec. 27-1 of this Code limits to not more than three (3) individuals who are not interrelated from occupying the whole or part of: 1. a single-family home, or 2. a single-family dwelling, or 3. a dwelling unit in a building containing multi-family dwelling units).

(b) such use would not be in such violation if a reasonable accommodation was granted pursuant to this Division.

In the event an application is not timely filed as required by this Subsection (4), or thereafter a Determination granting an accommodation or an alternate accommodation is not issued in accordance with the provisions of this Division, the violation shall be subject to the provisions of Section 27-15.9 above.

secs. 27-16 - 27-20 Reserved."

SECTION 4: Should any section, paragraph, sentence, clause, phrase, term, word or other part of this Ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this Ordinance as a whole or any portion or part thereof, other than the part so declared to be invalid.

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SECTION 5: This Ordinance shall take effect immediately upon passage after Fourth Reading by the City Council and Signature by the Mayor.

PASSED ON FIRST READING by the City Council this 25th day of March, 2018.

PASSED ON SECOND READING by the City Council this 9th day of May, 2018.

PASSED ON THIRD READING by the City Council this 23rd day of May, 2018.

PASSED ON FOURTH READING by the City Council this 25th day of July, 2018.

SIGNED by the Mayor this day of August, 2018.

MAYOR

ATTEST

CITY CLERK

APPROVED _____ DATE _____

REQUESTED BY: _____

DEPT. OK: _____

ADMN. OK: _____

ATTY. OK: _____

AS TO FORM ONLY RECORD

ENTRY:

I HEREBY CERTIFY that the Original of the foregoing signed Ordinance No.

2572 was received by the Office of the City Clerk and entered into the Public Record this day of August, 2018.


Susan Slattery, City Clerk

11001,v11(Final)

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