

1 Introduced by Council Member Diamond & Co-Sponsored by Council
2 Members Ferraro, White, Bowman, Freeman and Pittman and amended by
3 the Neighborhoods, Community Services, Public Health & Safety
4 Committee:

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7 **ORDINANCE 2020-614-E**

8 AN ORDINANCE CREATING A NEW PART 5 (PUBLIC
9 ACCOMMODATIONS FOR THOSE WITH SERVICE
10 ANIMALS), CHAPTER 406 (PUBLIC ACCOMMODATIONS),
11 *ORDINANCE CODE*, REGARDING PUBLIC ACCOMODATIONS
12 FOR INDIVIDUALS WITH SERVICE ANIMALS; CREATING
13 NEW SECTIONS 408.206 (HOUSING ACCOMMODATIONS
14 FOR INDIVIDUALS WITH SERVICE ANIMALS), 408.207
15 (PROHIBITED DISCRIMINATION IN HOUSING PROVIDED
16 TO PERSONS WITH A DISABILITY OR DISABILITY-
17 RELATED NEED FOR AN EMOTIONAL SUPPORT ANIMAL),
18 408.208 (UNLAWFUL PRACTICES AND PENALTIES),
19 AND 408.209 (COMPLIANCE WITH CHAPTER 462,
20 *ORDINANCE CODE*), PART 2 (FAIR HOUSING),
21 CHAPTER 408 (FAIR HOUSING), *ORDINANCE CODE*,
22 REGARDING HOUSING ACCOMMODATIONS FOR THOSE
23 WITH SERVICE ANIMALS AND EMOTIONAL SUPPORT
24 ANIMALS; PROVIDING AN EFFECTIVE DATE.

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26 **Section 1. Creating a new Part 5 (Public Accommodations**
27 **for those with Service Animals), Chapter 406 (Public**
28 **Accommodations), Ordinance Code.** Part 5 (Public Accommodations for
29 those with Service Animals), Chapter 406 (Public Accommodations),
30 *Ordinance Code*, is hereby created to read as follows:

CHAPTER 406. PUBLIC ACCOMMODATIONS.

* * *

PART 5. PUBLIC ACCOMMODATIONS FOR THOSE WITH SERVICE ANIMALS.

Sec. 406.501. Definitions as to Public Accommodations for those with Service Animals.

(a) *Individual with a disability* means a person who has a physical or mental impairment that substantially limits one or more major life activities of the individual.

(b) *Major life activity* means a function such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(c) Physical or mental impairment means:

1. A physiological disorder or condition, disfigurement, or anatomical loss that affects one or more bodily functions; or

2. A mental or psychological disorder that meets one of the diagnostic categories specified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association, such as an intellectual or developmental disability, organic brain syndrome, traumatic brain injury, posttraumatic stress disorder, military sexual trauma and/or an emotional or mental illness.

(d) *Service animal* means an animal that is trained to do work or perform tasks for an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The work done or tasks performed must be directly related to the individual's disability and may include, but are not limited to, guiding an individual who is visually impaired or blind, alerting an individual who is deaf or hard of hearing, pulling a

1 wheelchair, assisting with mobility or balance, alerting
2 and protecting an individual who is having a seizure,
3 retrieving objects, alerting an individual to the presence
4 of allergens, providing physical support and assistance
5 with balance and stability to an individual with a mobility
6 disability, helping an individual with a psychiatric or
7 neurological disability by preventing or interrupting
8 impulsive or destructive behaviors, reminding an individual
9 with mental illness to take prescribed medications, calming
10 an individual with posttraumatic stress disorder during an
11 anxiety attack, or doing other specific work or performing
12 other special tasks.

13
14 The term *service animal* is limited to a dog or miniature
15 horse. The crime-deterrent effect of an animal's presence
16 and the provision of emotional support, well-being,
17 comfort, or companionship do not constitute work or tasks
18 for purposes of this definition.

19 **Sec. 406.502. Reasonable Accommodation for individuals with**
20 **service animals.**

21 An individual with a disability is entitled to full and equal
22 accommodations, advantages, facilities, and privileges in all
23 public accommodations. A public accommodation must modify its
24 policies, practices, and procedures to permit use of a service
25 animal by an individual with a disability. This section does not
26 require any person, firm, business, or corporation, or any agent
27 thereof, to modify or provide any vehicle, premises, facility, or
28 service to a higher degree of accommodation than is required for a
29 person not disabled.

30 **Sec. 406.503. Right to be accompanied by a service animal in all**
31 **areas of a public accommodation that the public or customers are**

1 **normally permitted to occupy.**

2 (a) The service animal must be under the control of its handler
3 and must have a harness, leash, or other tether, unless either
4 the handler is unable because of a disability to use a
5 harness, leash, or other tether, or the use of a harness,
6 leash, or other tether would interfere with the service
7 animal's safe, effective performance of work or tasks, in
8 which case the service animal must be otherwise under the
9 handler's control by means of voice control, signals, or other
10 effective means.

11 (b) Documentation that the service animal is trained is not a
12 precondition for providing service to an individual
13 accompanied by a service animal. A public accommodation may
14 not ask about the nature or extent of an individual's
15 disability. To determine the difference between a service
16 animal and a pet, a public accommodation may ask if an animal
17 is a service animal required because of a disability and what
18 work or tasks the animal has been trained to perform.

19 (c) A public accommodation may not impose a deposit or surcharge
20 on an individual with a disability as a precondition to
21 permitting a service animal to accompany the individual with a
22 disability, even if a deposit is routinely required for pets.

23 (d) An individual with a disability is liable for damage caused by
24 a service animal if it is the regular policy and practice of
25 the public accommodation to charge nondisabled persons for
26 damages caused by their pets.

27 (e) The care or supervision of a service animal is the
28 responsibility of the individual owner. A public accommodation
29 in the City of Jacksonville will not be required to provide
30 care or food or a special location for the service animal or
31 assistance with removing animal excrement.

1 (f) A public accommodation may exclude or remove any animal from
2 the premises, including a service animal, if the animal is out
3 of control and the animal's handler does not take effective
4 action to control it, the animal is not housebroken, or the
5 animal's behavior poses a direct threat to the health and
6 safety of others. Allergies and fear of animals are not valid
7 reasons for denying access or refusing service to an
8 individual with a service animal. If a service animal is
9 excluded or removed for being a direct threat to others, the
10 public accommodation must provide the individual with a
11 disability the option of continuing access to the public
12 accommodation without having the service animal on the
13 premises.

14 **Sec. 406.504. Trainers of service animals.**

15 Any trainer of a service animal, while engaged in the training
16 of such an animal, has the same rights and privileges with respect
17 to access to public facilities and the same liability for damage as
18 is provided for those persons described in Section 406.501
19 accompanied by service animals.

20 **Sec. 406.505. Unlawful practices and penalties.**

21 (a) Any person, firm, or corporation, or the agent of any person,
22 firm, or corporation, who denies or interferes with admittance
23 to, or enjoyment of, a public accommodation or, with regard to
24 a public accommodation, otherwise interferes with the rights
25 of an individual with a disability or the trainer of a service
26 animal while engaged in the training of such an animal commits
27 a misdemeanor of the second degree, punishable as provided in
28 Section 775.082, *Florida Statutes*, or Section 775.083, *Florida*
29 *Statutes*, and must perform 30 hours of community service for
30 an organization that serves persons with disabilities or for
31 another entity or organization at the discretion of the court,

1 to be completed in not more than 6 months.

2 (b) A person who knowingly and willfully misrepresents herself or
3 himself, through conduct or verbal or written notice, as using
4 a service animal and being qualified to use a service animal
5 or as a trainer of a service animal commits a misdemeanor of
6 the second degree, punishable as provided in Section 775.082,
7 *Florida Statutes*, or Section 775.083, *Florida Statutes*, and
8 must perform 30 hours of community service for an organization
9 that serves persons with disabilities or for another entity or
10 organization at the discretion of the court, to be completed
11 in not more than 6 months.

12 **Sec. 406.506. Interference with or injury to a service animal;**
13 **penalties; restitution.**

14 (1) A person who, with reckless disregard, interferes with, or
15 permits a dog that he or she owns or is in the immediate control of
16 to interfere with, the use of a service animal by obstructing,
17 intimidating, or otherwise jeopardizing the safety of the service
18 animal or its user commits a misdemeanor of the second degree for
19 the first offense and a misdemeanor of the first degree for each
20 subsequent offense, punishable as provided in Section 775.082,
21 *Florida Statutes*, or Section 775.083, *Florida Statutes*.

22 (2) A person who, with reckless disregard, injures or kills, or
23 permits a dog that he or she owns or is in the immediate control of
24 to injure or kill, a service animal commits a misdemeanor of the
25 first degree, punishable as provided in Section 775.082, *Florida*
26 *Statutes*, or Section 775.083, *Florida Statutes*.

27 (3) A person who intentionally injures or kills, or permits a dog
28 that he or she owns or is in the immediate control of to injure or
29 kill, a service animal commits a felony of the third degree,
30 punishable as provided in Section 775.082, *Florida Statutes*,

1 Section 775.083, *Florida Statutes*, or Section 775.084, *Florida*
2 *Statutes*.

3 (4) (a) A person who is convicted of a violation of this section,
4 in addition to any other penalty, must make full restitution for
5 all damages that arise out of or are related to the offense,
6 including incidental and consequential damages incurred by the
7 service animal's user.

8 (b) Restitution includes the value of the service animal;
9 replacement and training or retraining expenses for the service
10 animal and the user; veterinary and other medical and boarding
11 expenses for the service animal; medical expenses for the user; and
12 lost wages or income incurred by the user during any period that
13 the user is without the services of the service animal.

14 **Sec. 406.507. Compliance with Chapter 462, Ordinance Code.**

15 Except as specifically provided for herein, the requirements
16 of Chapter 462, Ordinance Code, as to licensing, vaccination,
17 nuisance and other public health and regulatory requirements shall
18 apply to service animals within the City of Jacksonville.

19 **Section 2. Creating new Sections 408.206 (Housing**
20 **Accommodations for individuals with Service Animals), 408.207**
21 **(Prohibited discrimination in housing provided to persons with a**
22 **disability or disability-related need for an emotional support**
23 **animal), 408.208 (Unlawful practices and penalties), and 408.209**
24 **(Compliance with Chapter 462, Ordinance Code), Ordinance Code.**

25 Sections 408.206 (Housing Accommodations for individuals with
26 Service Animals), 408.207 (Prohibited discrimination in housing
27 provided to persons with a disability or disability-related need
28 for an emotional support animal), 408.208 (Unlawful practices and
29 penalties), and 408.209 (Compliance with Chapter 462, *Ordinance*
30 *Code*), Part 2 (Fair Housing), Chapter 408 (Fair Housing), *Ordinance*
31 *Code*, are hereby created to read as follows:

1 disorder during an anxiety attack, or doing other specific work or
2 performing other special tasks.

3 (a) An individual with a disability who has a service animal or who
4 obtains a service animal is entitled to full and equal access
5 to all housing accommodations provided for in this section,
6 and such a person may not be required to pay extra
7 compensation for such animal. However, such a person is liable
8 for any damage done to the premises or to another person on
9 the premises by the animal. A housing accommodation may
10 request proof of compliance with vaccination requirements.

11 (b) This section does not limit the rights or remedies of a housing
12 accommodation or an individual with a disability that are
13 granted by federal law or another law of the State of Florida
14 or the City of Jacksonville about other assistance animals.

15 **Sec. 408.207. Prohibited discrimination in housing provided**
16 **to persons with a disability or disability-related need for an**
17 **emotional support animal.**

18 (1) *Definitions.* As used in this section, the term:

19 (a) *Emotional support animal* means an animal that does not
20 require training to do work, perform tasks, provide
21 assistance, and provides therapeutic emotional support by
22 virtue of its presence which alleviates one or more
23 identified symptoms or effects of a person's disability.

24 (b) *Housing provider* means any person or entity engaging in
25 conduct covered by the federal Fair Housing Act or Section
26 504 of the Rehabilitation Act of 1973, including the owner
27 or lessor of a dwelling.

28 (2) *Reasonable Accommodation Requests.* To the extent required by
29 federal law, rule, or regulation, it is unlawful to
30 discriminate in the provision of housing to a person with a
31 disability or disability-related need for, and who has or at

1 any time obtains, an emotional support animal. A person with a
2 disability or disability-related need must, upon the person's
3 request and approval by a housing provider, be allowed to keep
4 such animal in his or her dwelling as a reasonable
5 accommodation in housing, and such person may not be required
6 to pay extra compensation for such animal. Unless otherwise
7 prohibited by federal law, rule, or regulation, a housing
8 provider may:

9 (a) Deny a reasonable accommodation request for an emotional
10 support animal if such animal poses a threat to the safety
11 or health of others or poses a threat of physical damage to
12 the property of others, which threat cannot be reduced or
13 eliminated by other reasonable accommodation.

14 (b) If a person's disability is not readily apparent, request
15 reliable information that reasonably supports that the
16 person has a disability. Supporting information may
17 include:

- 18 1. A determination of disability from any federal, state,
19 or local government agency.
- 20 2. Receipt of disability benefits or services from any
21 federal, state, or local government agency.
- 22 3. Proof of eligibility for housing assistance or a
23 housing voucher received because of a disability.
- 24 4. Information from a health care practitioner, as
25 defined in Section 456.001, *Florida Statutes*; a
26 telehealth provider, as defined in Section 456.47,
27 *Florida Statutes*; or any other similarly licensed or
28 certified practitioner or provider in good standing
29 with his or her profession's regulatory body in
30 another state but only if such out-of-state
31 practitioner has provided in-person care or services

1 to the tenant on at least one occasion. Such
2 information is reliable if the practitioner or
3 provider has personal knowledge of the person's
4 disability and is acting within the scope of his or
5 her practice to provide the supporting information.

6 5. Information from any other source that the housing
7 provider reasonably determines to be reliable in
8 accordance with the federal Fair Housing Act and
9 Section 504 of the Rehabilitation Act of 1973.

10 (c) If a person's disability-related need for an emotional
11 support animal is not readily apparent, a housing provider
12 may request reliable information that reasonably supports
13 the person's need for the particular emotional support
14 animal being requested. Supporting information may include:

15 1. Information identifying the particular assistance or
16 therapeutic emotional support provided by the specific
17 animal from a health care practitioner, as defined in
18 Section 456.001, *Florida Statutes*; a telehealth
19 provider, as defined in Section 456.47, *Florida*
20 *Statutes*; or any other similarly licensed or certified
21 practitioner or provider in good standing with his or
22 her profession's regulatory body in another state.
23 Such information is reliable if the practitioner or
24 provider has personal knowledge of the person's
25 disability and is acting within the scope of his or
26 her practice to provide the supporting information.

27 2. Information from any other source that the housing
28 provider reasonably determines to be reliable in
29 accordance with the federal Fair Housing Act and
30 Section 504 of the Rehabilitation Act of 1973.

1 (d) If a person requests to keep more than one emotional
2 support animal, a housing provider may request information
3 regarding the specific need for each animal.

4 (e) The housing provider may require proof of compliance with
5 state and local requirements for licensing and vaccinating
6 each emotional support animal.

7 (3) *Request Limitations.*

8 (a) Notwithstanding the authority to request information under
9 subsection (2), a housing provider may not request
10 information that discloses the diagnosis or severity of a
11 person's disability or any medical records relating to the
12 disability. However, a person may disclose such information
13 or medical records to the housing provider at his or her
14 discretion.

15 (b) A housing provider may develop and make available to
16 persons a routine method for receiving and processing
17 reasonable accommodation requests for emotional support
18 animals; however, a housing provider may not require the
19 use of a specific form or notarized statement, or deny a
20 request solely because a person did not follow the housing
21 provider's routine method.

22 (c) An emotional support animal registration of any kind,
23 including, but not limited to, an identification card,
24 patch, certificate, or similar registration obtained from
25 the Internet is not, by itself, sufficient information to
26 reliably establish that a person has a disability or
27 disability-related need for an emotional support animal.

28 (4) *Liability.* A person with a disability or disability-related
29 need is liable for any damage done to the premises or to
30 another person on the premises by his or her emotional support
31 animal.

1 (5) *Applicability*. This section does not apply to a service animal
2 as defined in Section 413.08, *Florida Statutes*, and Section
3 406.501, *Ordinance Code*.

4 **Sec. 408.208 Unlawful practices and penalties.**

5 A person who falsifies information or written documentation,
6 or knowingly provides fraudulent information or written
7 documentation, for an emotional support animal under this Part, or
8 otherwise knowingly and willfully misrepresents himself or herself,
9 through his or her conduct or through a verbal or written notice,
10 as having a disability or disability-related need for an emotional
11 support animal or being otherwise qualified to use an emotional
12 support animal, commits a misdemeanor of the second degree,
13 punishable as provided in Section 775.082, *Florida Statutes*, or
14 Section 775.083, *Florida Statutes*, and must perform 30 hours of
15 community service for an organization that serves persons with
16 disabilities, or for another entity or organization at the
17 discretion of the court, to be completed in not more than 6 months.

18 **Sec. 408.209. Compliance with Chapter 462, Ordinance Code.**

19 Except as specifically provided for herein, the requirements
20 of Chapter 462, *Ordinance Code*, as to licensing, vaccination,
21 nuisance and other public health and regulatory requirements shall
22 apply to emotional support animals within the City of Jacksonville.

23 **Section 3. Effective Date.** This ordinance shall become
24 effective upon signature by the Mayor or upon becoming effective
25 without the Mayor's signature.

26
27 Form Approved:

28
29 /s/ Paige H. Johnston

30 Office of General Counsel

31 Legislation Prepared By: Paige Hobbs Johnston

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