

IN THE CIRCUIT COURT, FOURTH  
JUDICIAL CIRCUIT, IN AND FOR  
CLAY COUNTY, FLORIDA

CASE NO.:

DIVISION:

THE TOWN OF ORANGE PARK, a  
Florida municipality,

Petitioner,  
vs.

JAX INNS, INC.,  
d.b.a., RODEWAY INN &  
CONFERENCE CENTRE, a Florida  
Corporation,

Respondent.

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**PETITION FOR ENFORCEMENT**

Petitioner, The Town of Orange Park (the "Town"), by and through its undersigned attorney, hereby files this Petition for Enforcement against Respondent, Jax Inns, Inc., pursuant to Section(s) 120.69 and 893.138, Florida Statutes and Chapter 17, Article II of the Town Code of the Town of Orange Park, Florida (the "Town Code"), and alleges as follows:

1. This is an action for enforcement of a Second Supplemental Order Abating the Public Nuisance (the "Order"), issued by the Nuisance Abatement Board of the

Town of Orange Park, Florida (the "Board"), a copy of which is attached as Exhibit "A."

2. This Court has jurisdiction over this action pursuant to s. 120.69 and 893.138, F.S. and Chapter 17, Article II of the Town Code.

3. Venue property lies in this Circuit, because the subject matter of this action is located in Clay County, Florida, and because the events giving rise to this action took place in Clay County, Florida.

#### **THE PARTIES**

4. Petitioner is a Florida municipality located in Clay County with general home rule powers under the Florida Constitution and the Florida Statutes, and specific powers set forth in the Florida Statutes, including the power under both the Florida Constitution and the Florida Statutes to enforce the Town Code by filing a civil action.

5. Respondent is a Florida corporation with its principal address located at 300 Park Avenue, Orange Park, Florida 32073, located in Clay County, Florida. Respondent operates a hotel/motel operating as "The Rodeway Inn" (the "Rodeway") at this address. Said hotel/motel is the subject of this Petition as more fully explained below.

### **THE NUISANCE ABATEMENT BOARD**

6. The Board was established by the Town Council of the Town of Orange Park on October 7, 2014, pursuant to the statutory authority granted municipalities by Section 893.138, Florida Statutes (see Exhibit "B"). An ordinance establishing the Board was subsequently codified under Chapter 17, Article II of the Town Code (see Exhibit "C").

7. Section 893.138, F.S. allows local governments to establish a nuisance abatement board to hear public nuisance complaints against properties that meet certain statutory criteria. Upon a declaration that a property is a public nuisance, nuisance abatement boards may take various administrative actions to abate drug-related, prostitution-related, or stolen-property related public nuisances. These actions may include closure of the property.

8. Specifically, properties subject to this Board's jurisdiction include any place or premises located within the territorial boundaries of the Town of Orange Park upon which the following violations are found by the Board to have taken place:

a. two (2) or more violations of Florida law prohibiting prostitution within a six (6) month period;

b. two (2) or more violations of Florida law prohibiting the unlawful sale, delivery, manufacture, or cultivation of a controlled substance within a six (6) month period;

c. one (1) or more violations of Florida law prohibiting the unlawful felony possession of a controlled substance if the place of premises has previously used as the site for the unlawful sale, delivery, manufacture, or cultivation of a controlled substance;

d. use by a criminal street gang for a pattern of criminal activity as defined in Florida law; or

e. two (2) or more violations of Florida law relating to stolen property within a 6-month period.

9. Following proper notice and an evidentiary hearing before the Board, properties within the Town meeting the above statutory criteria may be declared a public nuisance.

10. Upon finding a property to be a public nuisance, the Board has statutory authority to enter an order requiring the property's owner to adopt various procedures or conditions which the Board deems necessary under the circumstances to abate the nuisance.

11. Specifically, the Board has authority under s. 893.138, F.S. to:

- a. order closure of property, or
- b) prohibit the operation or maintenance of any business or activity on the property which the Board deems conducive to a public nuisance.

12. Orders of the Board may be judicially enforced through filing a Petition for Enforcement according the provisions of s. 120.69, Florida Statutes (see Exhibit D).

**PROCEDURAL HISTORY OF NUISANCE ABATEMENT BOARD**

**CASE NUMBER 15-01**

13. On February 2, 2015, after due notice to Respondent, and following an evidentiary hearing at which Respondent was present, the Board approved an order entitled "Nuisance Abatement Board Findings of Fact, Conclusion of Law, and Order Imposing Administrative Fine/Lien," a copy of which is attached as Exhibit "E."

14. During the February 2<sup>nd</sup> hearing, the Board found that in the six (6) months preceding the hearing date, law enforcement officials documented thirteen (13) separate instances of illegal sales or deliveries of controlled substances and one (1) instance of illegal controlled substance possession to have taken place at the Rodeway.

15. In light of the above findings, the Board declared the Rodeway to be a public nuisance as per the statutory criteria of s. 893.138, F.S. and the Town Code. The Board subsequently conducted a hearing to determine the most appropriate, and least restrictive, methods necessary to abate the public nuisance.

16. At the conclusion of this February 2<sup>nd</sup> hearing, the Board entered an order requiring Respondent to:

a. require valid photo identification as a condition of lawful access to the Rodeway and to provide copies of the same to members of the Orange Park Police Department upon request;

b. repair or replace all defective on-site lighting and implement an updated lighting plan;

c. install and maintain an updated camera surveillance system of all public areas and make a live feed of that system accessible to the Orange Park Police Department; and

d. install updated fencing upon the property.

17. The Board further ordered Respondent to pay \$3,000 in reasonable costs and fees associated with the investigation and hearing on the public nuisance. A separate fine, authorized under Florida law, totaling \$2,000 was suspended by the Board in an effort to lessen

the financial burden on Rodeway and assist them in implementing the required abatement remedies.

18. On September 21, 2015, the Board conducted a second evidentiary hearing at which Respondent was present and represented by counsel. At the conclusion of the hearing, the Board approved an order entitled "Nuisance Abatement Board Findings of Fact, Conclusions of Law, and Supplemental Order Abating the Public Nuisance", a copy of which is attached as Exhibit "F."

19. Based on evidence presented during the September 21<sup>st</sup> hearing, the Board found that, despite having previously declared Rodeway a public nuisance and having imposed various abatement remedies, criminal activity at the Rodeway continued unabated.

20. Specifically, the Board found that between the entry of its original order on February 2<sup>nd</sup> and the second evidentiary hearing on September 21<sup>st</sup>, law enforcement officials documented an additional six (6) separate instances of illegal sales or deliveries of controlled substances, an additional seven (7) instances of illegal controlled substance possession, and one (1) instance of illegal prostitution and prostitution-related activities to have occurred at the Rodeway.

21. The Board further heard testimony from the Orange Park Fire Chief that the Rodeway did not meet the minimum safety standards of the Town Code, as reflected in the Florida Building Code and the NFPA Fire Code, and that in his opinion as the Town fire marshall, the Rodeway constituted an immediate threat to public safety which contributed to the property's ongoing status as a public nuisance.

22. In response to these findings, the Board found that Respondent failed to abate the public nuisance as ordered. The Board approved an order immediately prohibiting Respondent from operating or maintaining the Rodeway as a hotel/motel or any other substantially similar use.

23. At Respondent's request, the Board agreed to suspend its order prohibiting operation of the Rodeway, pending Respondent's satisfactory and ongoing compliance with the remedies previously imposed as well as the following additional abatement remedies, which had been proposed by and stipulated to by Respondent:

- a. requiring Respondent to provide on-site, sworn law enforcement and supplemental private security on the property at all times;



b. requiring all current and prospective patrons to present valid photo identification upon check-in and make all payments via a credit card or debit card issued by a licensed financial institution;

c. requiring Respondent to prepare and submit an approved premises improvement plan, which, upon final completion of the capital improvements contained as part of the plan, would bring the Rodeway into compliance with the minimum requirements of the Florida Building Code and the NFPA Fire Code;

d. requiring Respondent to comply with all current and future requirements of the Florida Department of Health and the Florida Department of Business and Professional Regulation.

24. Additionally, at Respondent's request, the Board and Respondent stipulated to an extension of the Board's one (1) year period of statutory jurisdiction over the Rodeway and agreed to an extended term of jurisdiction through December 31, 2016.

25. On November 16, 2015, the Board conducted a third evidentiary hearing at which Respondent was present and represented by counsel. At the conclusion of the hearing, the Board approved an order entitled "Nuisance Abatement

Board Supplemental Order Abating the Public Nuisance," a copy of which is attached as Exhibit "G."

26. Based on evidence presented during its November 16<sup>th</sup> hearing, the Board found that Respondent failed to comply with the Board's previously issued order requiring Respondent to submit a premises improvement plan to the Board.

27. At Rodeway's request, and in lieu of enforcement of its previous order, the Board agreed to extend its previously imposed deadline for submission of a Town-approved premises improvement plan until December 11, 2015. The Board made clear to Respondent however, that failure to comply with this special condition by the extended deadline would result in enforcement of the Board's previous order prohibiting Respondent from operating or maintaining the Rodeway as a hotel/motel or other substantially similar use.

28. In an effort to minimize any real or perceived financial burdens claimed by Respondent, the Board also agreed to waive its previous requirements that Respondent provide for off-duty, sworn law enforcement upon the Rodeway and its requirement that room rental payments be only made via credit or debit card.

29. On December 18, 2015, the Board conducted its fourth evidentiary hearing at which Respondent was present and represented by counsel. At the conclusion of the hearing, the Board approved the Order (see Exhibit "A").

30. Based on the evidence presented during the December 18<sup>th</sup> hearing, the Board found that Respondent again failed to comply with the Board's previously issued order(s) requiring Respondent to submit a Town-approved premises improvement plan to the Board.

31. The Board further found that between its November and December hearings:

- a. illegal controlled substances continued to be possessed at the Rodeway in violation of Florida law;

- b. Respondent failed to maintain a current registry of residents and guests, and/or copies of photo identification, and produce said registry to the Orange Park Police Department upon request;

- c. Respondent failed to maintain a fully operable DVR and web accessible camera surveillance system, in that three (3) cameras included as part of the system were inoperable; and

- d. Respondent failed to maintain the premises' exterior lighting to the standards of approved plan.

32. Consequently, as part of the Order, the Board found it had exhausted all available appropriate remedies to abate the public nuisance, and after multiple attempts to utilize less restrictive abatement methods, Respondent was hereby prohibited from operating or maintaining the Rodeway as a hotel/motel or any other substantially similar use.

33. The Board further instructed the Town to seek immediate legal judicial enforcement of the Order through a Petition for Enforcement as authorized by s. 893.138, F.S. and the Town Code.

**PRAYER FOR ENFORCEMENT**

WHEREFORE, the Town respectfully requests this Court:

A. Take jurisdiction of this cause and these parties;

B. Issue a mandatory injunction prohibiting Respondent from operating or maintaining the Rodeway as a hotel/motel or any other substantially similar use through December 31, 2016 or until such time previous to said date as otherwise ordered by the Board;

C. Enter an order awarding the Town an amount equal to its costs and expenses incurred in bringing and prosecuting this action that may be awardable under s. 120.69, F.S., to the extent that the Town's entitlement to

the same may appear from the record of the proceedings of this action.

D. Award the Town such other relief as this Court may deem just and proper.

Respectfully submitted this 5<sup>th</sup> day of January, 2016.

KOPELOUSOS, BRADLEY &  
GARRISON, P.A.

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*Attorneys for Petitioner*

BEFORE THE NUISANCE ABATEMENT BOARD OF THE  
TOWN OF ORANGE PARK, CLAY COUNTY, FLORIDA

NAB CASE NO.: 15-01

TOWN OF ORANGE PARK,

Petitioner,

vs.

JAX INNS, INC.,  
a.k.a., RODEWAY INN &  
CONFERENCE CENTER,  
300 Park Avenue,  
Orange Park, FL 32073

Respondent.

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NUISANCE ABATEMENT BOARD SECOND SUPPLEMENTAL ORDER  
ABATING THE PUBLIC NUISANCE

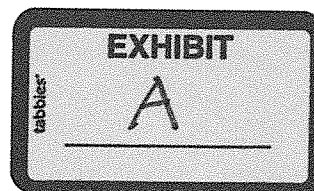
THIS CAUSE came on for hearing before the Nuisance Abatement Board of the Town of Orange Park (the "Board") on December 14, 2015, after due notice to the Respondent, Jax Inns, Inc., a.k.a., Rodeway Inn & Conference Center ("Rodeway"), and the Board having heard testimony under oath and received evidence, thereupon issues the following Order:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Board readopts the Findings of Fact and Conclusions of Law contained in its previously issued Order(s).

2. The Board has received testimony from various witnesses regarding the status of the Premises and the least restrictive means necessary to abate the public nuisance.

3. On November 17, 2015, illegal controlled substances were possessed upon the Premises in violation of Chapter 17, Article II of the Town Code of the Town of Orange Park.



4. Rodeway has failed to satisfactorily comply with the following special conditions previously ordered by the Board:

a. Maintain a current registry of residents and guests, and/or copies of photo identification, and produce said registry to the Orange Park Police Department upon request.

b. Maintain a fully operable DVR and web accessible camera surveillance system, in that three (3) cameras included as part of said system remain inoperable.

c. Maintain the Premises' exterior lighting to the standards of the Orange Park Police Department.

d. Submit an approved premises improvement plan which brings the Premises into compliance with the minimum requirements of the Florida Building Code and NFPA Fire Code.

5. Since this Board's declaration of Rodeway as a public nuisance on February 9, 2015, this Board has duly considered all available appropriate remedies and endeavored to use the least restrictive methods believed necessary to abate the public nuisance.

THEREFORE, IT IS

ORDER

ORDERED that:

A. Rodeway is prohibited from operating or maintaining the Premises as a hotel/motel or any other substantially similar use. The Board's previously ordered suspension of said prohibition is hereby rescinded.

B. The Town Attorney is instructed to seek immediate judicial enforcement of this Order by filing a petition for enforcement in the Clay County Circuit Court as authorized by the Town Code of the Town of Orange Park, Florida, Chapter 17, Article II and Section 893.138, Florida Statutes.

C. This Order shall be recorded in the Public Records of Clay County, Florida, and shall constitute a

lien against the above described property pursuant to Section 893.138, Florida Statutes and Chapter 17, Article II, Section 17-17 of the Town Code of the Town of Orange Park, Florida.

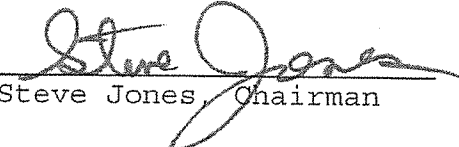
D. Pursuant to Chapter 17, Article II, Section 17-17 of the Town Code of the Town of Orange Park, Florida, while under the jurisdiction of this Order, the Board may suspend, or lift the suspension, of any remedy imposed, whether the remedy was initially imposed or not. Lifting a suspended remedy or imposing a new remedy shall not operate to extend the stipulated, extended jurisdiction of the Board through December 31, 2016, and nothing contained in this subsection shall be construed as compelling such vacation or modification.

#### ENFORCEMENT

The Town is authorized to enforce this Order through a Petition for Enforcement to the Circuit Court, pursuant to Section 120.69, Florida Statutes, and to request all lawful relief as authorized thereof.

DONE AND ORDERED this 18<sup>th</sup> day of December, 2015.

NUISANCE ABATEMENT BOARD  
TOWN OF ORANGE PARK, FLORIDA

  
Steve Jones, Chairman



I HEREBY CERTIFY that a true and correct copy of the foregoing Second Supplemental Order Abating the Public Nuisance has been furnished to Respondent, Jax Inns, Inc., a/k/a Rodeway Inn & Conference Center, c/o Jitendra B. Patel, 28049 S. Wixom Rd., #315, Wixom, Michigan 43893, Navendra Patel, Premises Operator, Rodeway Inn and Conference Center, 300 Park Avenue, Orange Park, Florida 32073, and Daniel Copeland, Esq., 9310 Old Kings Road South, Suite 1501, Jacksonville, Florida 32257-8104 this 18<sup>th</sup> day of December 2015, by mail/hand delivery.

  
Sarah Campbell  
Town Clerk

IN THE EVENT OF NON-COMPLIANCE, OR NON-PAYMENT OF THE FINE HEREIN THIS ORDER IMPOSING A FINE SHALL BE RECORDED IN THE PUBLIC RECORDS OF CLAY COUNTY, FLORIDA AND THEREAFTER SHALL CONSTITUTE A LIEN AGAINST THE LAND UPON WHICH THE VIOLATION EXISTS.

PLEASE BE ADVISED THIS ORDER SHALL BE SUBJECT TO JUDICIAL REVIEW IN THE MANNER PROVIDED BY LAW, IN ACCORDANCE WITH CHAPTER 17, ARTICLE II, SECTION 17-18, TOWN CODE OF THE TOWN OF ORANGE PARK, FLORIDA.

West's Florida Statutes Annotated

Title XLVI. Crimes (Chapters 775-899)

Chapter 893. Drug Abuse Prevention and Control (Refs & Annos)

West's F.S.A. § 893.138

893.138. Local administrative action to abate drug-related, prostitution-related, or stolen-property-related public nuisances and criminal gang activity

Effective: May 8, 2012

Currentness

(1) It is the intent of this section to promote, protect, and improve the health, safety, and welfare of the citizens of the counties and municipalities of this state by authorizing the creation of administrative boards with authority to impose administrative fines and other noncriminal penalties in order to provide an equitable, expeditious, effective, and inexpensive method of enforcing ordinances in counties and municipalities under circumstances when a pending or repeated violation continues to exist.

(2) Any place or premises that has been used:

(a) On more than two occasions within a 6-month period, as the site of a violation of s. 796.07;

(b) On more than two occasions within a 6-month period, as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;

(c) On one occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been previously used on more than one occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;

(d) By a criminal gang for the purpose of conducting criminal gang activity as defined by s. 874.03; or

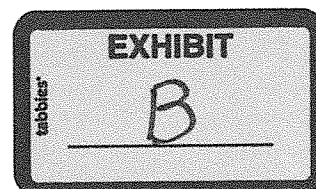
(e) On more than two occasions within a 6-month period, as the site of a violation of s. 812.019 relating to dealing in stolen property

may be declared to be a public nuisance, and such nuisance may be abated pursuant to the procedures provided in this section.

(3) Any pain-management clinic, as described in s. 458.3265 or s. 459.0137, which has been used on more than two occasions within a 6-month period as the site of a violation of:

(a) Section 784.011, s. 784.021, s. 784.03, or s. 784.045, relating to assault and battery;

(b) Section 810.02, relating to burglary;



(c) Section 812.014, relating to dealing in theft;

(d) Section 812.131, relating to robbery by sudden snatching; or

(e) Section 893.13, relating to the unlawful distribution of controlled substances,

may be declared to be a public nuisance, and such nuisance may be abated pursuant to the procedures provided in this section.

(4) Any county or municipality may, by ordinance, create an administrative board to hear complaints regarding the nuisances described in subsection (2). Any employee, officer, or resident of the county or municipality may bring a complaint before the board after giving not less than 3 days' written notice of such complaint to the owner of the place or premises at his or her last known address. After a hearing in which the board may consider any evidence, including evidence of the general reputation of the place or premises, and at which the owner of the premises shall have an opportunity to present evidence in his or her defense, the board may declare the place or premises to be a public nuisance as described in subsection (2).

(5) If the board declares a place or premises to be a public nuisance, it may enter an order requiring the owner of such place or premises to adopt such procedure as may be appropriate under the circumstances to abate any such nuisance or it may enter an order immediately prohibiting:

(a) The maintaining of the nuisance;

(b) The operating or maintaining of the place or premises, including the closure of the place or premises or any part thereof; or

(c) The conduct, operation, or maintenance of any business or activity on the premises which is conducive to such nuisance.

(6) An order entered under subsection (5) shall expire after 1 year or at such earlier time as is stated in the order.

(7) An order entered under subsection (5) may be enforced pursuant to the procedures contained in s. 120.69. This subsection does not subject a municipality that creates a board under this section, or the board so created, to any other provision of chapter 120.

(8) The board may bring a complaint under s. 60.05 seeking temporary and permanent injunctive relief against any nuisance described in subsection (2).

(9) This section does not restrict the right of any person to proceed under s. 60.05 against any public nuisance.

(10) As used in this section, the term "controlled substance" includes any substance sold in lieu of a controlled substance in violation of s. 817.563 or any imitation controlled substance defined in s. 817.564.

(11) The provisions of this section may be supplemented by a county or municipal ordinance. The ordinance may include, but is not limited to, provisions that establish additional penalties for public nuisances, including fines not to exceed \$250 per day; provide for the payment of reasonable costs, including reasonable attorney fees associated with investigations of and hearings on public nuisances; provide for continuing jurisdiction for a period of 1 year over any place or premises that has been or is declared to be a public nuisance; establish penalties, including fines not to exceed \$500 per day for recurring public nuisances; provide for the recording of orders on public nuisances so that notice must be given to subsequent purchasers, successors in interest, or assigns of the real property that is the subject of the order; provide that recorded orders on public nuisances may become liens against the real property that is the subject of the order; and provide for the foreclosure of property subject to a lien and the recovery of all costs, including reasonable attorney fees, associated with the recording of orders and foreclosure. No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under s. 4, Art. X of the State Constitution. Where a local government seeks to bring an administrative action, based on a stolen property nuisance, against a property owner operating an establishment where multiple tenants, on one site, conduct their own retail business, the property owner shall not be subject to a lien against his or her property or the prohibition of operation provision if the property owner evicts the business declared to be a nuisance within 90 days after notification by registered mail to the property owner of a second stolen property conviction of the tenant. The total fines imposed pursuant to the authority of this section shall not exceed \$15,000. Nothing contained within this section prohibits a county or municipality from proceeding against a public nuisance by any other means.

#### Credits

Laws 1987, c. 87-243, § 7; Laws 1990, c. 90-207, § 2; Laws 1991, c. 91-143, § 1; Laws 1993, c. 93-227, § 6; Laws 1994, c. 94-242, § 1. Amended by Laws 1996, c. 96-388, § 42, eff. Oct. 1, 1996; Laws 1997, c. 97-102, § 1829, eff. July 1, 1997; Laws 1997, c. 97-200, § 1, eff. Oct. 1, 1997; Laws 1998, c. 98-395, § 2, eff. May 31, 1998; Laws 2000, c. 2000-111, § 1, eff. July 1, 2000; Laws 2001, c. 2001-66, § 5, eff. July 3, 2001; Laws 2008, c. 2008-238, § 24, eff. Oct. 1, 2008; Laws 2011, c. 2011-141, § 27, eff. July 1, 2011; Laws 2012, c. 2012-5, § 87, eff. May 8, 2012.

West's F. S. A. § 893.138, FL ST § 893.138

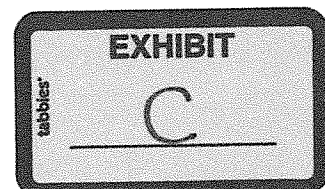
Current through the 2015 1st Reg. Sess. and Special A Session of the Twenty-Fourth Legislature

ORDINANCE NO.: 19 - 14

AN ORDINANCE AMENDING CHAPTER 17 OF THE ORANGE PARK TOWN CODE ESTABLISHING A NUISANCE ABATEMENT BOARD FOR THE TOWN OF ORANGE PARK; PROVIDING FOR THE COMPOSITION OF THE BOARD AND TERMS OF OFFICE FOR BOARD MEMBERS; DECLARING THE STANDARD FOR DETERMINING PUBLIC NUISANCES WITHIN THE TOWN; ESTABLISHING THE POWERS AND DUTIES OF THE BOARD TO CONDUCT HEARINGS; ESTABLISHING PROCEDURES FOR REVIEW OF CASES TO BE PRESENTED TO THE BOARD BY THE TOWN, NOTICE REQUIREMENTS FOR OWNERS OR OPERATORS OF AFFECTED PREMISES, AND PROCEDURES FOR THE CONDUCT OF HEARINGS; ESTABLISHING LAWFUL REMEDIES, IMPOSITION OF FINES AND COSTS, AND OTHER ABATEMENT POWERS; ESTABLISHING A JURISDICTION PERIOD OF ONE (1) YEAR; ALLOWING FOR ENFORCEMENT OF BOARD ORDERS; ESTABLISHING A RIGHT TO APPEAL BOARD ORDERS IN THE MANNER PROVIDED BY LAW; PROVIDING FOR SEVERABILITY; PROVIDING AN IMMEDIATE EFFECTIVE DATE

WHEREAS, it is in the interests of the Town of Orange Park (the "Town") to promote, protect, and improve the health, safety and welfare of the citizens of the Town; and

WHEREAS, Florida law authorizes Florida municipalities to create administrative boards with statutory authority to impose administrative fines and other noncriminal penalties in order to provide an equitable, expeditious, effective,



means of determining and abating public nuisances when a pending or repeated violation continues to exist; and

WHEREAS, the Town Council desires to utilize all lawful and reasonable measures at its disposal in order to ensure the Town remains a safe and secure place for Town residents and businesses to live, work and play; now therefore,

BE IT ORDAINED by the Town Council of Orange Park that:

Section 1. Code Amended. Chapter 17 of the Orange Park Town Code is amended, and Chapter 17, Article II is adopted in whole part, to read as follows:

CHAPTER 17. NUISANCES.

ARTICLE I. IN GENERAL.

\* \* \*

ARTICLE II. PUBLIC NUISANCE ABATEMENT

BOARD

Section 17-10. Creation; composition; term of office.

(1) There is hereby created and established a board to be known and designated as the nuisance abatement board.

(2) The Board shall consist of 5 members who are residents of the Town, serving without pay.

(3) The members of the Board shall be

appointed by a council member for terms concurrent with the terms of the council members holding the seat terms, or portions thereof, provided in Section(s) 2.02(c) or 2.06 of the Town Charter, and whether or not any of such council members shall have been appointed or elected by regular or special election. If any council seat shall become vacant, the term of the Board member previously nominated by the last elected or appointed seat holder shall carry over until the next council member elected or appointed to such seat shall take office. No person who has, or but for resignation would have, served as Board member for more than seven and one-half (7 ½) years in three (3) consecutive terms shall be appointed for the next succeeding term.

#### Section 17-11. Definitions.

As used in this article:

*Board* means the nuisance abatement board of the Town of Orange Park.

*Controlled substance* means any substance named or described in F.S. § 893.03; any substance sold in lieu of a controlled substance defined in F.S. § 817.563; any imitation controlled substance defined in F.S. § 817.564; or any legend drug or prescription drug as defined in F.S. § 499.003.

*Effective term* means the term of one year from the date of entry by the Board of an order requiring the owner of a place or premises declared by the Board to be a public nuisance to adopt procedures to abate the nuisance, or a shorter term if the order provides for its expiration in less than one year. Any order of the Board declaring a recurring nuisance relating to nuisance

activity on the same property with the same property owner shall not extend the effective term.

*Operator* means the person operating a place or premises subject to this article. The term "operator" includes, but is not limited to, owners, tenants, subtenants, and persons having operational control over the place or premises.

*Owner* means the owner of the real property upon which the place or premises is located. In cases where the owner and the operator are the same person, the terms "owner" and "operator" are used interchangeably in this article.

*Place or premises* means real property and its appurtenances and structures thereon as described in the deed or other instrument of conveyance as recorded in the Public Records of Clay County, Florida. The term "place" or "premises" includes but is not limited to parking lots and other areas open to the general public or to invitees or licensees.

*Public nuisance conduct* means the conduct described in Section 17-12.

*Recurring public nuisance conduct* means any single or multiple instance of the conduct described in Section 17-12 occurring during the effective term of an order entered by the Board.

*Respondent* means the owner, operator, and any other person against whom a complaint is brought pursuant to this article.

*Town* means the Town of Orange Park, a Florida municipality.



Section 17-12. Declaration of public nuisance.

For the purpose of this Article, any place or premises, or any part thereof, within the boundaries of the Town which has been used for the following purposes are declared to be public nuisances:

- (1) On more than two occasions within a six-month period, as the site of a violation of F.S. §796.07, relating to prostitution and prostitution-related activities;
- (2) On more than two occasions within a six-month period, as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
- (3) On one occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been previously used on more than one occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
- (4) By a criminal gang for the purpose of conducting criminal gang activity as defined by F.S. §874.03; or
- (5) On more than two occasions within a six-month period, as the site of a violation of F.S. §812.019 relating to dealing in stolen property; or
- (6) On more than two occasions within a six-month period, any pain management clinic, as described in F.S. § 458.3265 or F.S. § 459.0137, as the site of a violation of :

(a) F.S. §784.011, §784.021, §784.03, or §784.045, relating to assault and battery;

(b) F.S. §810.02, relating to burglary;

(c) F.S. §812.014, relating to dealing in theft;

(d) F.S. §812.131, relating to robbery by sudden snatching; or

(e) F.S. §893.13, relating to the unlawful distribution of controlled substances.

**Section 17-13. Board powers and duties.**

(1) The Board shall serve as a quasi-judicial forum in which a determination regarding the existence of public nuisance conduct may be resolved in the public interest with due process of law.

(2) The Board shall have the power to adopt or establish rules of procedure for the administration and conduct of its hearings. Such rules shall be designed to facilitate the efficient administration of this Article and shall always ensure fundamental due process.

(3) The members of the Board shall elect a chair who shall be a voting member from among the members of the Board. The member elected chair shall serve as chair for a term of one year and may be re-elected to serve an additional term or term(s) as chair.

(4) The presence of three (3) members shall constitute a quorum of the Board.

The affirmative vote of at least three (3) members shall be necessary to take action.

(5) The Town may call hearings of the Board and all hearings shall be open to the public.

(6) The Town Clerk shall be the custodian of all Board case files and documents pertaining thereto and shall have the authority to certify other documents issued by the Board. The Town Clerk is empowered to administer oaths to witnesses appearing before the Board and to issue subpoenas in the name of the Board for service of process by any city police officer or designed agent.

(7) The Special Magistrate, or other attorney licensed by the Florida Bar and appointed by the Town Council, shall serve as a non-voting, legal advisor to the Board. The Town Attorney shall present cases before the Board and shall represent the Town in the event of appellate review of orders issued by the Board.

#### **Section 17-14. Procedures.**

(1) *Written complaint; reports.* Any law enforcement officer making an arrest or substantiating an incident or occurrence of any statutory violation(s) or violations of section(s) set forth herein and pursuant to information or independent observation, shall submit a copy of every such report and/or offense incident report to the Chief of Police or designee who shall process all such reports and, in consultation with the Town Attorney, determine when the requisite number of occurrences or violations have taken place as set

forth in Section 17-12.

(2) *Processing; review of case.*

(a) In each case where such determination has been made in accordance with subsection (1) above, the case shall be processed through the office of the Chief of Police.

(b) When the Chief of Police, in consultation with the Town Attorney, believes that a public nuisance as defined in Section 17-12 exists, he or she may request the Town Clerk to prepare a case folder for a complaint and request a hearing before the Board.

(3) *Hearings; hearing notices.*

(a) The Town Clerk shall schedule the hearings and issue hearing notices:

(i) by sending written notice of the hearing to the owner and/or operator by certified mail, return receipt requested, or

(ii) by hand delivering the written notice to the owner and/or operator of the premises at their last known address at least 15 calendar days prior to the scheduled hearing.

If an attempt to serve notice upon the owners and/or operators by certified mail or hand delivery is unsuccessful, service of the notice of the hearing may be made by posting as provided in F.S. § 162.1292(b), such posting to take place not less than ten days before the scheduled hearing date. The owner and/or operator shall be responsible for providing notice to any tenant, lessee or lessor of the hearing.

(b) The notice of hearing shall include a complaint stating the following:

(i) The time, place and nature of the hearing.

(ii) The legal authority and jurisdiction under which the hearing is to be held.

(iii) Reference to the particular section(s) of the statute(s) and ordinance(s) involved.

(iv) A short and plain statement of facts giving rise to the complaint.

#### Section 17-15. Conduct of hearings.

(1) The town attorney shall present evidence before the Board on behalf of the Town.

(2) The Board shall conduct a hearing on the complaint and receive evidence pertaining to the conduct described in the complaint.

(3) All parties shall have an opportunity to present evidence and argument on all issues involved, conduct cross examination, submit rebuttal evidence and to be represented by counsel. In addition:

(a) The Board may consider any evidence, including but not limited to evidence of the general reputation of the place or premises. All testimony shall be given under oath and shall be recorded. Formal rules of evidence shall not apply, but fundamental due process shall govern the proceedings. Orders of the Board shall be based upon competent and substantial evidence.

(b) The Town shall have the burden of proving the existence of an unlawful public nuisance by the greater weight of the evidence.

(d) If the respondent has been properly noticed in regard to the hearing before the Board and fails to appear, the Board may proceed with a hearing in absentia on the merits of the alleged violation. Any findings or orders resulting from such hearing are valid and binding upon the respondents.

**Section 17-16. Remedies, orders and jurisdiction.**

(1) At the conclusion of the hearing and after considering all evidence presented at such hearing, the Board shall issue findings of fact based upon the evidence presented and made part of the record that a public nuisance does not exist or that an unlawful public nuisance does exist.

(a) If the Board finds that the allegations of the complaint have not been proved, the Board shall dismiss the complaint.

(b) If the Board finds that a sufficient number of the allegations of the complaint have been proved, the Board may declare the property to be an unlawful public nuisance.

(2) If the Board declares that the property is an unlawful public nuisance, the Board shall then consider the appropriate remedy, at the same meeting or at a later regular meeting or special meeting called for such purpose. The Board may, following its consideration of the appropriate remedy and endeavoring to use the least \*

restrictive method believed necessary to abate the nuisance, enter an order:

(a) Immediately prohibiting the maintaining of the nuisance;

(b) Immediately prohibiting the operating or maintaining of the place or premises, including the closure of the place or premises or any part thereof;

(c) Immediately prohibiting the conduct, operation, or maintenance of any business or activity on the premises which is conducive to such nuisance;

(d) Requiring the owner of such place or premises to adopt such procedure(s) as may be appropriate under the circumstances to abate any such nuisance; or

(e) Any combination of subsections (a), (b), (c), or (d)

(3) Upon declaring that the property is an unlawful public nuisance, the Board may also:

(a) Impose a fine not to exceed \$250 per day for each day conduct occurred upon which the Board based its finding of a public nuisance and a fine not to exceed \$500 per day for each subsequent finding of recurring public nuisance conduct occurring on the premises during the time the Board retains jurisdiction over the premises. If two or more respondents are fined, the total amount of the fines shall not exceed the maximum amount per day authorized by this subsection. The respondent must satisfy the fine by making payment to the Town. Unpaid fines shall accrue interest as provided

in F.S. § 55.03. The Board may suspend such fines, in whole or in part, contingent upon compliance with other terms or conditions of the order, and may terminate the suspension and impose such fines upon a showing that the respondent has not complied with such term or condition of the order;

(b) Award reasonable costs associated with the investigation and hearing on the public nuisance, including an attorney's fee, investigative costs, and costs of recording of its order. The respondent must pay the award of costs and fees to the Town. Unpaid costs and fees shall accrue interest as provide in F.S. § 55.03. The Board may suspend such costs and fees, in whole or in part, contingent upon compliance with the other terms or conditions of the order, and may later terminate the suspension and impose such costs and fees upon a showing that the respondent has not complied with such term or condition of the order.

(4) If the Board finds two or more respondents responsible for a public nuisance, those respondents will be jointly and severally responsible for complying with the actions ordered under this section and for satisfying the fines imposed and costs and fees awarded.

(5) The total fine imposed pursuant to this section shall not exceed \$15,000 during the effective term of any order. If two or more respondents are fined, the total amount of the fines shall not exceed \$15,000 during the effective term of the order.

(6) The findings and orders of the Board shall be reduced to writing,



executed by the presiding chair of the Board, and filed with the Town Clerk. A copy of the executed order shall be mailed or hand delivered to each party within five working days after execution by the presiding chair of the Board.

(7) The Board may retain jurisdiction for one year after the order's effective date to modify the order where just cause is found to exist.

(8) The Board may request the Town to bring a complaint under F.S. § 60.05, seeking an injunction against any nuisance described herein.

(9) The Board, after ordering any of the remedies authorized by this section, may suspend the remedy, and may lift the suspension at any time while the Board has jurisdiction whether such remedy was initially imposed or not. The Board shall give the owner notice and an opportunity to be heard before lifting a suspended remedy or imposing a new remedy. Lifting a suspended remedy or imposing a new remedy shall not operate to extend the one-year jurisdiction of the Board.

#### **Section 17-17. Enforcement of orders.**

(1) Any order issued by the Board under the provisions of Section 17-16 shall expire one year after its effective date or at such earlier time as is stated in the order. However, any fines imposed or costs and fees awarded shall continue to be an indebtedness owed to the Town until satisfied and shall not expire one year after the effective date of the order. Such fines, costs, and fees will become a lien against the property upon the

recording of the order.

(2) Any order issued by the Board declaring a place or premises to be a public nuisance that imposes fines, costs, or attorney's fees under Section 17-16 shall be recorded in the public records, and shall become a lien against the real property that is the subject of the order.

(3) Fines, costs, or attorney's fees imposed under the provisions of Section 17-16 shall be due and payable upon the date of the order of the Board imposing any and all fines, costs, or attorney's fees. Fines, costs, or attorney's fees may be paid in full without interest during the first 30 calendar days after the date of the order of the Board. Thereafter, interest at the rate established by the comptroller of the State pursuant to F.S. §§ 55.03 and 687.01, shall accrue upon any unpaid amount of fine and costs. The interest rate in effect on the date of the order of the Board shall remain in effect until the fine and costs are paid. If the Board suspends a fine, costs, or both, interest shall begin to accrue 30 calendar days after the date that the Board may terminate the suspension and impose the fines or costs, or both, in whole or in part.

(4) Any lien recorded against real property may be foreclosed by the Town and the owner of such real property shall be liable for all costs, including reasonable attorney fees, associated with the recording of orders and foreclosure. However, no lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under section 4, article X of the Florida Constitution.

(5) The Town may bring a complaint under F.S. § 60.05 and seek a permanent injunction against any public nuisance.

(6) The Town is authorized to enforce any orders entered under this Article in the Circuit Court, pursuant to the procedures contained in F.S. § 120.69.

(7) The Town is authorized to initiate proceedings in any county, state or federal forum for the suspension or revocation of any permits, licenses, concessions or contracts held or awarded to the Respondent, including contracts awarded under F.S. § 24.112 (lottery retailers) and including licenses for the sale of beverages issued under F.S. § 561.19, where the existence of such permits, licenses, concessions or contracts is conducive to the maintenance of such nuisance.

(8) Orders shall be posted at the place, building, or premises where the public nuisance exists, existed or is occurring, in violation of the law and shall be sent by certified mail to the owner and/or operator of such place, building, or premises within two (2) business days of the posting.

(9) All powers and rights conferred by this section shall be in addition to and supplemental to those conferred by any other general or special laws governing public nuisances and shall be liberally construed to effectuate the purpose of this chapter.

#### **Section 17-18. Appeals.**

An order of the Board shall be subject to judicial review in the manner provided by law.

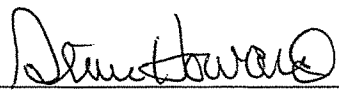
Section 2. Conflict. If any portion of this ordinance is in conflict with any portion of any other ordinance, then the provisions of this ordinance shall govern.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

Section 4. Effective Date. That this Ordinance shall become effective immediately upon its adoption.

Passed on first reading this 4th day of September, 2014.

Passed on second reading this 7th day of October, 2014.

  
MAYOR 10/9/2014

ATTEST:

  
TOWN CLERK  
FORM APPROVED:

  
TOWN ATTORNEY

**CLAY  
TODAY**3513 U.S. Hwy. 17 • Fleming Island, FL 32003  
Phone (904) 264-3200**Ponte Vedra  
Recorder**100 Executive Way, Suite 105 • Ponte Vedra Beach, FL 32082  
Phone (904) 285-8831

## Advertising Invoice

TOWN OF ORANGE PARK  
2042 PARK AVE  
ORANGE PARK, FL 32073Cust#:503653  
Ad#:225622  
Phone#:904-264-9565  
Date:09/15/2014

Salesperson: Clay Legals

Classification: Legal Notice

Ad Size: 1.0 x 5.7

**Advertisement Information:**

Description	Start	Stop	Ins.	Cost/Day	Total
Clay Today	09/18/2014	09/18/2014	1	51.30	51.30

**Payment Information:**

Date:	Order#	Type
09/15/2014	225622	BILLED ACCOUNT

Total Amount: 51.30

Tax: 0.00

Amount Due: 51.30

Attention: Requests for credits or refunds for early cancellations must be made within 90 days.

Ad Copy



PUBLISHER AFFIDAVIT  
**CLAY TODAY**  
 Published Weekly  
 Orange Park, Florida

STATE OF FLORIDA  
 COUNTY OF CLAY:

Before the undersigned authority personally appeared Jon Cantrell, who on oath says that he is the publisher of the "Clay Today" a newspaper published weekly at Orange Park in Clay County, Florida; that the attached copy of advertisement being a

**LEGAL NOTICE - PUBLIC HEARING**

in the matter of

**CHAPTER 17**

**LEGAL: 32217 ORDER: 225622**

was published in said newspaper in the issues:

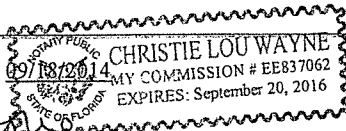
**09/18/2014**

Affiant further says that said "Clay Today" is a newspaper published at Orange Park, in said Clay County, Florida, and that the said newspaper has heretofore been continuously published in said Clay County, Florida, weekly, and has been entered as Periodical material matter at the post office in Orange Park, in said Clay County, Florida, for period of one year next proceeding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.



Sworn to me and subscribed before me

*Christie Lou Wayne*  
 NOTARY PUBLIC, STATE OF FLORIDA



3515 US HWY 17 Suite A, Fleming Island FL 32003  
 Telephone (904) 264-3200 - FAX (904) 264-3285  
 E-Mail: Christie@opcfla.com

**LEGAL NOTICE**

Public Notice is hereby given the Town Council of the Town of Orange Park will hold a public hearing on an ordinance of the Town Council of the Town of Orange Park, Florida, amending Chapter 17 of the Orange Park Town Code establishing a nuisance abatement board for the Town of Orange Park; providing for the composition of the board and the terms of office for board members; declaring the standard for determining public nuisances within the Town; establishing the powers and duties of the board to conduct hearings; establishing procedures for review of cases to be presented to the board by the Town; notice requirements for owners or operators of affected premises, and procedures for the conduct of hearing; establishing lawful remedies, imposition of fines and costs, and other abatement powers; establishing a jurisdiction period of one year; allowing for enforcement of board orders; establishing a right to appeal board orders in the manner provided by law; providing for severability; providing an effective date.

This public hearing will be held on Tuesday, October 7, 2014 in the Orange Park Town Hall Council Chambers, the corner of Park and Kingsley Avenue, at 7:00 P.M. The Council of the Town of Orange Park will consider said ordinance for final action. Any person deciding to appeal any decision made by the Council of the Town of Orange Park with respect to any matter considered at this meeting or hearing will need a verbatim record

of the proceedings is made, which record would include the testimony and evidence upon which the appeal is to be based. Copies of this ordinance may be examined in the office of the Town Clerk, Monday through Friday from 8:00 A.M. until 5:00 P.M. Interested parties may attend the meeting and be heard.

Sarah Campbell, Town Clerk  
 Legal 32217 published Sept 18, 2014 in Clay County's Clay Today newspaper

West's Florida Statutes Annotated

Title X. Public Officers, Employees, and Records (Chapters 110-123)

Chapter 120. Administrative Procedure Act (Refs & Annos)

West's F.S.A. § 120.69

120.69. Enforcement of agency action

Currentness

(1) Except as otherwise provided by statute:

(a) Any agency may seek enforcement of an action by filing a petition for enforcement, as provided in this section, in the circuit court where the subject matter of the enforcement is located.

(b) A petition for enforcement of any agency action may be filed by any substantially interested person who is a resident of the state. However, no such action may be commenced:

1. Prior to 60 days after the petitioner has given notice of the violation of the agency action to the head of the agency concerned, the Attorney General, and any alleged violator of the agency action.

2. If an agency has filed, and is diligently prosecuting, a petition for enforcement.

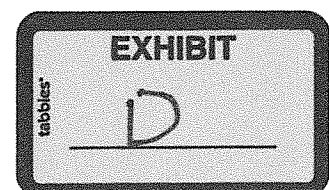
(c) A petition for enforcement filed by a nongovernmental person shall be in the name of the State of Florida on the relation of the petitioner, and the doctrines of res judicata and collateral estoppel shall apply.

(d) In an action brought under paragraph (b), the agency whose action is sought to be enforced, if not a party, may intervene as a matter of right.

(2) A petition for enforcement may request declaratory relief; temporary or permanent equitable relief; any fine, forfeiture, penalty, or other remedy provided by statute; any combination of the foregoing; or, in the absence of any other specific statutory authority, a fine not to exceed \$1,000.

(3) After the court has rendered judgment on a petition for enforcement, no other petition shall be filed or adjudicated against the same agency action, on the basis of the same transaction or occurrence, unless expressly authorized on remand. The doctrines of res judicata and collateral estoppel shall apply, and the court shall make such orders as are necessary to avoid multiplicity of actions.

(4) In all enforcement proceedings:





(a) If enforcement depends on any facts other than those appearing in the record, the court may ascertain such facts under procedures set forth in s. 120.68(7)(a).

(b) If one or more petitions for enforcement and a petition for review involving the same agency action are pending at the same time, the court considering the review petition may order all such actions transferred to and consolidated in one court. Each party shall be under an affirmative duty to notify the court when it becomes aware of multiple proceedings.

(c) Should any party willfully fail to comply with an order of the court, the court shall punish that party in accordance with the law applicable to contempt committed by a person in the trial of any other action.

(5) In any enforcement proceeding the respondent may assert as a defense the invalidity of any relevant statute, the inapplicability of the administrative determination to respondent, compliance by the respondent, the inappropriateness of the remedy sought by the agency, or any combination of the foregoing. In addition, if the petition for enforcement is filed during the time within which the respondent could petition for judicial review of the agency action, the respondent may assert the invalidity of the agency action.

(6) Notwithstanding any other provision of this section, upon receipt of evidence that an alleged violation of an agency's action presents an imminent and substantial threat to the public health, safety, or welfare, the agency may bring suit for immediate temporary relief in an appropriate circuit court, and the granting of such temporary relief shall not have res judicata or collateral estoppel effect as to further relief sought under a petition for enforcement relating to the same violation.

(7) In any final order on a petition for enforcement the court may award to the prevailing party all or part of the costs of litigation and reasonable attorney's fees and expert witness fees, whenever the court determines that such an award is appropriate.

#### **Credits**

Laws 1974, c. 74-310, § 1; Laws 1995, c. 95-147, § 766. Amended by Laws 1996, c. 96-159, § 36, eff. Oct. 1, 1996.

West's F. S. A. § 120.69, FL ST § 120.69

Current through the 2015 1st Reg. Sess. and Special A Session of the Twenty-Fourth Legislature

BEFORE THE NUISANCE ABATEMENT BOARD OF THE TOWN  
OF ORANGE PARK, CLAY COUNTY, FLORIDA

NAB CASE NO.: 15-01

TOWN OF ORANGE PARK,

Petitioner

vs.

JAX INNS, INC.,  
a.k.a., RODEWAY INN &  
CONFERENCE CENTER,  
300 Park Avenue,  
Orange Park, FL 32073

Respondent

NUISANCE ABATEMENT BOARD FINDINGS OF FACT, CONCLUSION OF  
LAW, AND ORDER IMPOSING ADMINISTRATIVE FINE/LIEN

THIS CAUSE came on for hearing before the Nuisance Abatement Board of the Town of Orange Park (the "Board") on February 2, 2015, after due notice to the Respondent, Jax Inns, Inc., a.k.a., Rodeway Inn & Conference Center ("Rodeway"), and the Board having heard testimony under oath and received evidence, thereupon issues its Findings of Fact, Conclusion of Law, and Order Imposing Administrative Fine/Lien as follows:

FINDINGS OF FACT

1. The Respondent, Rodeway, is the owner of a hotel/motel, whose mailing address is 300 Park Avenue, Orange Park, Florida 32073 (the "Premises") and is the owner of the premises described as:

That certain tract or parcel of land being a portion of Lots 11 and 12, Block 4, Section 1, Orange Park, and being a portion of Lot 8, Section 3, Orange Park, and being a portion of Plainfield Avenue (closed by Ordinance 137) all as shown on Plat of Florida Winter Homes Improvement Company Lands, originally recorded in Deed Book K, Pages 58 and 59, and later transferred to Play Book 1, Page 23 or the Public Records of Clay County, Florida, being more particularly described as follows: Commencing at the intersection of the westerly right-of-way line of U.S. Highway No. 17 as now established with the Northerly right-of-way line of Johnson Avenue (a 50 foot right-of-way): thence along a curve to the left in the right-of-way line of said U.S. Highway No. 17, said curve having a radius of

EXHIBIT

E

2789.79 feet, a distance of 175 feet, as measured along a chord bearing North 8°30'40" West to a concrete monument for the point of beginning: thence continue along said curve in the said right-of-way line a distance of 330.89 feet as measured along a chord bearing North 13°42'30" West to a concrete monument: thence South 88°04'50" East. 175 feet to the point of beginning. Containing 5.70 acres more or less. Subject to a non-exclusive easement for ingress and egress over the following described premises: Commencing at the intersection of the Westerly right-of-way line of U.S. Highway No. 17 as now established with the Northerly right-of-way line of Johnson Avenue (a 50 foot right-of-way); thence along a curve to the left in the right-of-way line of said U.S. Highway No. 17, said curve having a radius of 2769.79 feet, a distance of 175 feet, as measured along a chord bearing North 8°30'40" West to a concrete monument for the point of beginning: thence continue along said curve in said right-of-way line, a distance of 40 feet as measured along a chord bearing North 10°43'09" West; thence South 88°04'50" West, 168.88 feet: thence along a curve to the left, said curve having a radius of 39.53 feet, an arc distance of 62.09 feet: thence North 88°04'50" East, 214.53 to the point of beginning.

2. That on or between September 23, 2014 and October 17, 2014, the Premises was in violation of the Town of Orange Park, Town Code, Chapter 17, Article II, as is more particularly described as follows:

Illegal sales or deliveries of controlled substances were conducted upon the Premises on:

- a. September 23, 2014
- b. September 24, 2014
- c. September 24, 2014
- d. September 25, 2014
- e. September 26, 2014
- f. September 26, 2014
- g. October 1, 2014
- h. October 1, 2014
- i. October 2, 2014
- j. October 2, 2014
- k. October 14, 2014
- l. October 14, 2014
- m. October 17, 2014

Illegal controlled substances were possessed upon the Premises on:

a. October 17, 2014

DECLARATION OF PUBLIC NUISANCE

3. The Respondent, Rodeway, by reason of the foregoing is in violation of the Town Code of the Town of Orange Park, Florida, Chapter 17, Article II, Section 17-12, in that Rodeway is declared a public nuisance and is subject to the provision of the Town Code of the Town of Orange Park, Florida, Chapter 17, Article II and as authorized by Section 893.138, Florida Statutes.

4. The Board shall have jurisdiction for a period of one year from the entry of this Order.

REMEDIES

5. The Board, having duly considered the available appropriate remedies, and endeavoring to use the least restrictive methods believed necessary to abate the above-declared public nuisance, hereby requires Rodeway to adopt the following abatement procedure(s):

a. Within seven (7) days of entry of this Order, every current and future resident and/or guest over eighteen (18) years of age shall provide Rodeway with valid photo identification as a condition of registration and lawful access to the Premises. Potential residents and/or guests meeting this criteria not providing Rodeway with said valid photo identification shall be denied access to the Premises. Rodeway shall be responsible for making and preserving copies of the photo identification of all residents and/or guests. Additionally, Rodeway shall produce and maintain a current database of all registered residents and/or guests and shall be required to produce said registry and/or copies of photo identification to the Orange Park Police Department immediately upon request.

b. Within seven (7) days of this Order, Rodeway shall repair or replace all defective current on site lighting. Additionally, on or before February 28, 2015, Rodeway will present to the Orange Park Police Department an improved lighting plan that is consistent with the "Crime Prevention through Environmental Design" ("CPTED")

protocols that is approved by the Chief of Police or his designee. The agreed upon CPTED plan shall thereafter be installed on or before March 31, 2015.

c. On or before March 31, 2015, Rodeway shall install an updated camera surveillance system. This system will be DVR and web accessible, specifically providing to the Orange Park Police Department such web accessibility. The surveillance system shall cover all public spaces upon the Premises, including, but not limited to, lobbies, hallways, breezeways and parking lots. The system shall also be capable of night recognition of the faces of drivers of vehicles and the vehicles license plates of all such vehicles entering and exiting the Premises.

d. On or before February 28, 2015, Rodeway will submit a fencing plan to the Orange Park Police Department that is consistent with the "Crime Prevention through Environmental Design" ("CPTED") protocols and that is approved by the Chief of Police or his designee. The agreed upon CPTED fencing plan shall thereafter be installed on or before March 31, 2015.

#### ORDER

ORDERED that Respondent, Rodeway:

A. Immediately cease and desist from allowing illegal controlled substance use, possession, sale or distribution, or the solicitation of illegal controlled substance use, possession, sale or distribution upon the Premises.

B. Implement the above-listed remedies detailed in Section 5 of this Order according to the schedule(s) stated therein. Implementation of said remedies shall be at Rodeway's sole expense.

C. Pay to the Town of Orange Park, Florida, a fine in the amount of \$250.00 per day for each day conduct occurred upon which the Board based its finding of a public nuisance for a total of \$2,000. Said fine is suspended, and shall not be made immediately due and payable until further order of this Board following a review of Rodeway's compliance with the requirements of this Order.

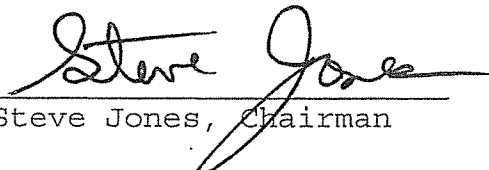
D. Pay to the Town of Orange Park, Florida, an additional \$3,000 for the reasonable costs and attorney's fees associated with the investigation and hearing on the public nuisance. This payment shall be due and payable upon the date of this Order, and may be paid in full without interest during the first thirty (30) calendar days following entry of this Order pursuant to Section 17-17 of the Town Code of the Town of Orange Park.

E. This Order shall be recorded in the Public Records of Clay County, Florida, and shall constitute a lien against the above described property pursuant to Section 893.138, Florida Statutes and Chapter 17, Article II, Section 17-17 of the Town Code of the Town of Orange Park, Florida.

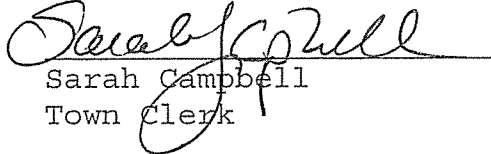
F. Pursuant to Chapter 17, Article II, Section 17-17 of the Town Code of the Town of Orange Park, Florida, while under the jurisdiction of this Order, the Board may suspend, or lift the suspension, of any remedy imposed, whether the remedy was initially imposed or not. Lifting a suspended remedy or imposing a new remedy shall not operate to extend the one-year jurisdiction of the Board and nothing contained in this subsection shall be construed as compelling such vacating or modification.

DONE AND ORDERED this 2nd day of February, 2015.

NUISANCE ABATEMENT BOARD  
TOWN OF ORANGE PARK, FLORIDA

  
Steve Jones, Chairman

I HEREBY CERTIFY that a true and correct copy of the foregoing Findings of Fact, Conclusion of Law and Order Imposing Administrative Fine/Lien has been furnished to Respondent, Jax Inns, Inc., a/k/a Rodeway Inn & Conference Center, c/o Jitendra B. Patel, 28049 S. Wixom Rd., #315, Wixom, Michigan 43893 and Mike Patel, Premises Operator, Rodeway Inn and Conference Center, 300 Park Avenue, Orange Park, Florida 32073, this 9<sup>th</sup> day of February 2015, by mail/hand delivery.

  
Sarah Campbell  
Town Clerk

IN THE EVENT OF NON-COMPLIANCE, OR NON-PAYMENT OF THE FINE HEREIN THIS ORDER IMPOSING A FINE SHALL BE RECORDED IN THE PUBLIC RECORDS OF CLAY COUNTY, FLORIDA AND THEREAFTER SHALL CONSTITUTE A LIEN AGAINST THE LAND UPON WHICH THE VIOLATION EXISTS.

PLEASE BE ADVISED THIS ORDER SHALL BE SUBJECT TO JUDICIAL REVIEW IN THE MANNER PROVIDED BY LAW, IN ACCORDANCE WITH CHAPTER 17, ARTICLE II, SECTION 17-18, TOWN CODE OF THE TOWN OF ORANGE PARK, FLORIDA.

BEFORE THE NUISANCE ABATEMENT BOARD OF THE  
TOWN OF ORANGE PARK, CLAY COUNTY, FLORIDA

NAB CASE NO.: 15-01

TOWN OF ORANGE PARK,

Petitioner,

vs.

JAX INNS, INC.,  
a.k.a., RODEWAY INN &  
CONFERENCE CENTER,  
300 Park Avenue,  
Orange Park, FL 32073

Respondent.

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NUISANCE ABATEMENT BOARD FINDINGS OF FACT, CONCLUSIONS OF  
LAW AND SUPPLEMENTAL ORDER ABATING THE PUBLIC NUISANCE

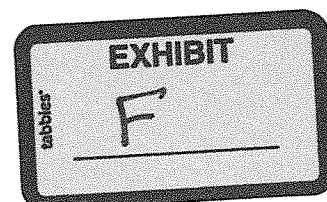
THIS CAUSE came on for hearing before the Nuisance Abatement Board of the Town of Orange Park (the "Board") on September 21, 2015, after due notice to the Respondent, Jax Inns, Inc., a.k.a., Rodeway Inn & Conference Center ("Rodeway"), and the Board having heard testimony under oath and received evidence, thereupon issues the following Order:

FINDINGS OF FACT

1. The Board readopts the Findings of Fact contained in its Initial Order dated February 2, 2015.

2. On or between February 2, 2015, and September 21, 2015, the hotel/motel, whose mailing address is 300 Park Avenue, Orange Park, Florida 32083 (the "Premises") was in violation of the Town of Orange Park, Town Code, Chapter 17, Article II, as is more particularly described as follows:

Illegal sales or deliveries of controlled substances were conducted upon the Premises on:





- a. July 15, 2015
- b. July 16, 2015
- c. July 16, 2015
- d. July 17, 2015
- e. September 11, 2015
- f. September 11, 2015

Illegal controlled substances were possessed upon the Premises on:

- a. May 7, 2015
- b. June 1, 2015
- c. July 2, 2015
- d. July 24, 2015
- e. August 8, 2015
- f. August 8, 2015
- g. September 10, 2015

Illegal prostitution and prostitution-related activities were conducted upon the Premises on:

- a. September 10, 2015

#### CONCLUSIONS OF LAW

3. The Board, having previously declared the Premises a public nuisance pursuant to the Town Code of the Town of Orange Park, Florida, Chapter 17, Article II and as authorized by Section 893.138, Florida Statutes, and having duly considered the available appropriate remedies, and endeavoring to use the least restrictive methods believed necessary to abate the public nuisance, hereby finds that:

a. Rodeway failed to immediately cease and desist from allowing controlled substance use, possession, sale or distribution, or the solicitation of illegal

controlled substance use, possession, sale or distribution upon the Premises.

b. Rodeway remains in violation of the Town of Orange Park, Town Code, Chapter 17, Article II, as is more particularly described in Section 2 above.

c. Based upon the testimony presented, there are no alternative procedure(s) appropriate under the circumstances sufficient to abate the public nuisance upon the Premises,

THEREFORE, IT IS

ORDER

ORDERED that Respondent, Rodeway:

A. In order to abate the public nuisance, is immediately prohibited from operating or maintaining the Premises as a hotel/motel or any other substantially similar use. Said order is **suspended**, pending ongoing, satisfactory compliance with the below conditions and those previously imposed by the Board, or pending further determination by the Board:

1. **Beginning Monday, September 28, 2015,** Rodeway shall provide for an off-duty, sworn law enforcement officer and supplemental private security services to be physically present on the premises twenty-four (24) hours a day and seven (7) days a week for a minimum of thirty (30) consecutive days. The ongoing extent and duration of this condition shall be subsequently determined by the Board. Rodeway shall be exclusively responsible for all costs associated with this condition.

2. **Beginning Monday, September 28, 2015,** Rodeway shall require all current and prospective patrons of the hotel/motel to present valid photo identification upon check-in, and shall require that all room rental payments be made via credit card or debit card issued by a licensed financial institution. Hotel/motel patrons whose room rental payments are sponsored by non-profit or civic organizations are exempted from this requirement.

3. **On or before October 19, 2015,** Rodeway shall prepare and submit a premises improvement plan approved by

the Town, and which, when completed, shall bring the Premises into compliance with the requirements of the Florida Building Code and the NFPA Fire Code, as determined by the Town or its authorized designee. Rodeway shall be exclusively responsible for all costs associated with this condition, including but not limited to the required inspection(s) of the Premises. Once approved by the Board, Rodeway shall meet all deadlines and requirements of the plan. Failure by Rodeway to meet the deadlines and requirements of the approved plan shall constitute noncompliance with this condition.

4. **Effective immediately**, Rodeway shall fully and timely comply with all current and future requirements of the Florida Department of Health and the Florida Department of Business and Professional Regulation.

B. By stipulation of the parties, the Board shall retain jurisdiction over this matter (NAB Case: 15-01) through December 31, 2016.

C. This Order shall be recorded in the Public Records of Clay County, Florida, and shall constitute a lien against the above described property pursuant to Section 893.138, Florida Statutes and Chapter 17, Article II, Section 17-17 of the Town Code of the Town of Orange Park, Florida.

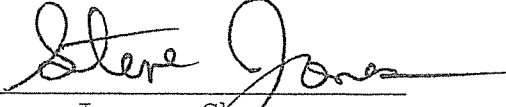
D. Pursuant to Chapter 17, Article II, Section 17-17 of the Town Code of the Town of Orange Park, Florida, while under the jurisdiction of this Order, the Board may suspend, or lift the suspension, of any remedy imposed, whether the remedy was initially imposed or not. Lifting a suspended remedy or imposing a new remedy shall not operate to extend the stipulated, extended jurisdiction of the Board through December 31, 2016, and nothing contained in this subsection shall be construed as compelling such vacating or modification.

#### **ENFORCEMENT**


The Town is authorized to enforce this Order through a Petition for Enforcement to the Circuit Court, pursuant to Section 120.69, Florida Statutes, and to request all lawful relief as authorized thereof.

DONE AND ORDERED this <sup>21<sup>st</sup></sup>~~19<sup>th</sup>~~ day of September, 2015.

NUISANCE ABATEMENT BOARD  
TOWN OF ORANGE PARK, FLORIDA

  
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Steve Jones, Chairman

I HEREBY CERTIFY that a true and correct copy of the foregoing Findings of Fact, Conclusions of Law and Order Abating the Public Nuisance has been furnished to Respondent, Jax Inns, Inc., a/k/a Rodeway Inn & Conference Center, c/o Jitendra B. Patel, 28049 S. Wixom Rd., #315, Wixom, Michigan 43893, Mike Patel, Premises Operator, Rodeway Inn and Conference Center, 300 Park Avenue, Orange Park, Florida 32073, and Daniel Copeland, Esq., 9310 Old Kings Road South, Suite 1501, Jacksonville, Florida 32257-8104 this 21<sup>st</sup> day of September 2015, by mail/hand delivery.

  
Sarah Campbell  
Town Clerk

IN THE EVENT OF NON-COMPLIANCE, OR NON-PAYMENT OF THE FINE HEREIN THIS ORDER IMPOSING A FINE SHALL BE RECORDED IN THE PUBLIC RECORDS OF CLAY COUNTY, FLORIDA AND THEREAFTER SHALL CONSTITUTE A LIEN AGAINST THE LAND UPON WHICH THE VIOLATION EXISTS.

PLEASE BE ADVISED THIS ORDER SHALL BE SUBJECT TO JUDICIAL REVIEW IN THE MANNER PROVIDED BY LAW, IN ACCORDANCE WITH CHAPTER 17, ARTICLE II, SECTION 17-18, TOWN CODE OF THE TOWN OF ORANGE PARK, FLORIDA.

BEFORE THE NUISANCE ABATEMENT BOARD OF THE  
TOWN OF ORANGE PARK, CLAY COUNTY, FLORIDA

NAB CASE NO.: 15-01

TOWN OF ORANGE PARK,

Petitioner,

vs.

JAX INNS, INC.,  
a.k.a., RODEWAY INN &  
CONFERENCE CENTER,  
300 Park Avenue,  
Orange Park, FL 32073

Respondent.

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NUISANCE ABATEMENT BOARD SUPPLEMENTAL ORDER  
ABATING THE PUBLIC NUISANCE

THIS CAUSE came on for hearing before the Nuisance Abatement Board of the Town of Orange Park (the "Board") on November 16, 2015, after due notice to the Respondent, Jax Inns, Inc., a.k.a., Rodeway Inn & Conference Center ("Rodeway"), and the Board having heard testimony under oath and received evidence, thereupon issues the following Order:

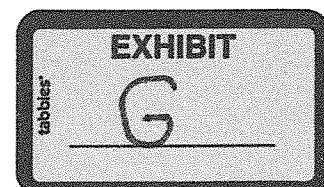
FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Board readopts the Findings of Fact and Conclusions of Law contained in its previously issued Orders.

2. The Board has received testimony from various witnesses regarding the status of the Premises and the least restrictive means necessary to abate the public nuisance.

THEREFORE, IT IS

ORDER



ORDERED that Respondent, Rodeway:

A. Is released from the following special conditions previously imposed by the Board:

1. Effective Tuesday, November 18, 2015, Rodeway shall no longer be required to provide for an off-duty, sworn law enforcement officer to be physically present on the premises twenty-four (24) hours a day and seven (7) days a week.

2. Effective Tuesday, November 18, 2015, Rodeway shall no longer be responsible for requiring that all room rental payments be made via credit card or debit card issued by a licensed financial institution.

Release of the above-listed special condition(s) is contingent upon the continued presence of Protective Enterprises of Florida, LLC upon the Premises providing private security services to satisfy the previously ordered special condition.

B. On or before December 11, 2015, Rodeway shall submit an approved premises improvement plan (the "Plan") as previously ordered by the Board. Failure by Rodeway to obtain written endorsement of the Plan by the Chief of Police, Fire Chief, and Department of Health prior to submission shall constitute non-compliance with this special condition. Failure to comply with this special condition shall result in enforcement of the Board's previous order immediately prohibiting Rodeway from operating or maintaining the Premises as a hotel/motel or any other substantially similar use.

C. On or before November 24, 2015, Rodeway shall pay all outstanding invoices submitted on behalf of off-duty, sworn law enforcement officers for costs associated with previous orders of the Board

D. This Order shall be recorded in the Public Records of Clay County, Florida, and shall constitute a lien against the above described property pursuant to Section 893.138, Florida Statutes and Chapter 17, Article II, Section 17-17 of the Town Code of the Town of Orange Park, Florida.

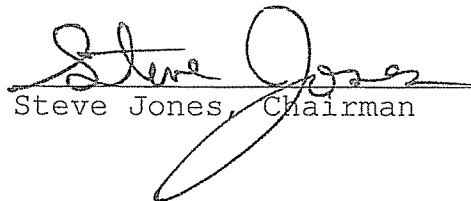
E. Pursuant to Chapter 17, Article II, Section 17-17 of the Town Code of the Town of Orange Park, Florida, while under the jurisdiction of this Order, the Board may suspend, or lift the suspension, of any remedy imposed, whether the remedy was initially imposed or not. Lifting a suspended remedy or imposing a new remedy shall not operate to extend the stipulated, extended jurisdiction of the Board through December 31, 2016, and nothing contained in this subsection shall be construed as compelling such vacating or modification.

#### ENFORCEMENT

The Town is authorized to enforce this Order through a Petition for Enforcement to the Circuit Court, pursuant to Section 120.69, Florida Statutes, and to request all lawful relief as authorized thereof.

DONE AND ORDERED this 20<sup>th</sup> day of November, 2015.

NUISANCE ABATEMENT BOARD  
TOWN OF ORANGE PARK, FLORIDA

  
Steve Jones, Chairman



I HEREBY CERTIFY that a true and correct copy of the foregoing Findings of Fact, Conclusions of Law and Order Abating the Public Nuisance has been furnished to Respondent, Jax Inns, Inc., a/k/a Rodeway Inn & Conference Center, c/o Jitendra B. Patel, 28049 S. Wixom Rd., #315, Wixom, Michigan 43893, Navendra Patel, Premises Operator, Rodeway Inn and Conference Center, 300 Park Avenue, Orange Park, Florida 32073, and Daniel Copeland, Esq., 9310 Old Kings Road South, Suite 1501, Jacksonville, Florida 32257-8104 this 20<sup>th</sup> day of November 2015, by mail/hand delivery.

  
Sarah Campbell  
Town Clerk

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