

ORDINANCE 01-2026

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES, CHAPTER 78, ARTICLE I, SECTION 78-6, ENTITLED "APPLICATIONS AND REGULATIONS FOR REASONABLE ACCOMMODATIONS OF RESIDENTS OF RECOVERY RESIDENCES"; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Lake Park, Florida is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 162, Florida Statutes; and

WHEREAS, the Town Commission has adopted certain land development regulations which have been codified in Chapter 78 of the Town Code, entitled "Zoning"; and

WHEREAS, regulations pertaining to recovery residences and reasonable accommodation are contained within Section 78-6 of the Town's Code of Ordinances; and

WHEREAS, Senate Bill (SB) 954 mandates that certain requirements must be included in a local government ordinance regulating recovery residences; and

WHEREAS, the Community Development Department has recommended amending Section 78-6 of the Town's Code of Ordinances for consistency with SB 954; and

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK FLORIDA THAT:

Section 1. The whereas clauses are incorporated herein as the legislative findings of the Town commission.

Section 2. Chapter 78, Article I, Section 78-6 is hereby amended to read as follows:

Sec. 78-6. Applications and regulations for reasonable accommodation for residents of recovery residences.

(a) *Definitions.*

Counseling means the process, conducted in a facility licensed under F.S. ch. 397, of engaging a client in a discussion of issues associated with the client's substance abuse and associated problems in an effort to work toward a constructive resolution of those problems and ultimately toward recovery.

Certified recovery residence administrator means a recovery resident administrator who has been certified and maintained certification from a credentialing entity approved by the department of children and families.

Certified recovery residence means a recovery residence that holds a valid certificate of compliance from a credentialing entity approved by the department of children and families, and is actively managed by a certified recovery residence administrator.

Disabled individual or a disabled person means an individual meeting the definition of "disability" set forth in 42 U.S.C.S. § 12102 of the American with Disabilities Act (ADA) means someone having: (i) a physical or mental impairment which substantially limits one or more major life activities; (ii) a record of having such impairment; and (iii) who is regarded as having such an impairment.

Housing provider means a person or entity which provides housing for individuals disabled due to substance abuse.

Licensed service provider means a public agency under F.S. ch. 397, a private for-profit or non-for-profit agency under F.S. ch. 397, a physician or any other private practitioner licensed under this chapter, or a hospital that offers substance abuse services through one or more licensed service components.

Qualifying entity shall mean, a licensed service provider in the State of Florida as defined by F.S. § 397.311(18), or an entity who is in the business of providing recovery residences for individuals disabled due to substance abuse.

Recovery means a process of personal change through which individuals achieve abstinence from alcohol or drug abuse and improve health, wellness, and quality of life.

Recovery residence means a residential dwelling unit, or other form of group housing that is offered or advertised through any means including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug free living environment.

Recovery residence administrator means the person responsible for the overall management of the recovery residence, including but not limited to, the supervision of residents and staff employed by, or volunteering for, the residence.

Service component or component means a discrete operational entity within a service provider which is subject to licensing as defined by the rules adopted to implement F.S. ch. 397.

Substance abuse means the misuse of, or dependence on alcohol, illicit drugs, or prescription medications.

Treatment means specific clinical and services such as individual and group counseling.

(b) Application:

This section implements the policy of the town for processing reasonable accommodation applications for persons with disabilities and who are in recovery from substance abuse. Any applicant whether a disabled individual, housing provider, or a qualifying entity may apply for a reasonable accommodation with respect to the town's land use or applicable zoning laws, codes, rules, practices and/or procedures by submitting an application on the town approved form which is available in the town's Community Development Department ("department"). At a minimum the form shall include the name and contact information of the applicant's authorized representative, the property address and parcel identification number, a description of the accommodation requested, and the specific regulation or policy from which relief is sought.

- (1) All qualifying entities shall submit as part of an application for a reasonable accommodation, proof of the licensable service component the qualifying entity holds pursuant to F.S. ch. 397.
- (2) Applicants requesting a reasonable accommodation from the definition of the term family who are seeking to operate a recovery residence where unrelated individuals who are disabled by substance abuse will live together as a family shall submit an application on the town's approved form and provide the information requested therein together with such information as the town may reasonably deem to be necessary to demonstrate that the entity has been certified as a recovery residence by a state approved credentialing entity, or has been recognized or sanctioned by Congress (Oxford House) to operate the proposed recovery residence
- (3) ~~Applicants making application for a reasonable accommodation whether individually, through a qualifying entity or as a housing provider, shall submit proof that each individual who will reside in a recovery residence is disabled due to the individual's handicap or disability by substance abuse.~~
- (4) (3) Applicants making applications to operate a recovery residence shall identify the recovery residence administrator who is responsible for the overall management and the supervision of residents and any staff. Applicant shall submit such information as is necessary to document that the recovery residence will be managed by a recovery residence administrator who resides within the residence and has been certified by a state approved credentialing entity.
- (5) ~~An applicant for a reasonable accommodation under this section shall submit an application using a form which is available in the town's community development department ("department"). The information on the form must be complete before it will be submitted to the town's special magistrate for consideration.~~
- (6) ~~The town shall display a notice in the town's public notice bulletin board (and shall maintain copies available for review in the department, the~~

~~building/permitting division, and the town clerk's office), advising the public that an application for a reasonable accommodation as provided in this section has been submitted to the department.~~

(7)(4) A disabled individual, qualifying entity, or housing provider who has applied for a reasonable accommodation may be represented at all stages of the reasonable accommodation proceedings by a person designated by the disabled individual as their authorized agent. Any authorized agent representing an individual, a qualifying entity or housing provider shall include as part of its application a written authorization designating the individual as the agent authorized to legally bind the applicant to the representations in the application, or any conditions agreed to or imposed as part of the order of the special magistrate.

(5) An individual, qualifying entity, or housing provider who is the tenant of the property owner and making a request for a reasonable accommodation, shall submit information disclosing the owner or the property and written confirmation from the owner demonstrating that it has consented to the submission of the request for a reasonable accommodation.

(8)(6) No application fee shall be imposed by the department in connection with an application for a reasonable accommodation, however an appropriate escrow fee shall be collected to cover costs of legal notice as required by the Town.

(c) An individual, qualifying entity, or housing provider who is the tenant of a property owner and making a request for a reasonable accommodation, shall submit information disclosing the owner of the property and written confirmation from the owner demonstrating that it has consented to the submission of the request for a reasonable accommodation.

(c) Procedures for Review and Determination of Reasonable Accommodation

(1) Application for Reasonable Accommodation shall be submitted to the Community Development Department.

(2) Upon receipt of a complete application as determined by the department, the application shall be date-stamped.

(3) If additional information is needed the department shall notify the applicant in writing within 30 days of receipt, specifying the information needed.

(4) The applicant shall provide the requested information within 30 days of the request.

(5) Once the application is deemed complete, the department shall schedule a hearing before the town special magistrate.

(6) The town shall display a notice in the town's public notice bulletin board (and shall maintain copies available for review in the department, the building/permitting division, and the town clerk's office), advising the public that

an application for a reasonable accommodation as provided in this section has been submitted to the department.

(7) The town shall be responsible for mailing via certified mail a notice to all property owners within 300 feet of the subject property containing the date and time of the Special Magistrate's hearing to consider the application.

(8) The town magistrate shall issue a final written determination on the application within 60 days of a completed application, unless the parties agree in writing to a reasonable extension of time.

(9) The final determination must:

- a. Approve the request in whole or in part, with or without conditions; or
- b. Deny the request, stating with specificity the objective, evidence-based reasons for denial and identifying any deficiencies or actions necessary for reconsideration.

(10) If a final written determination is not issued within 60 days after receipt of a completed application, the request is deemed approved unless the parties agree in writing to a reasonable extension of time.

~~(d) Applicants for a reasonable accommodation shall have the burden of establishing that the individuals on whose behalf the application has been submitted are protected under the provisions of the FHA and/or ADA. The applicant shall also demonstrate that the accommodation being sought for all of the individuals who will occupy the recovery residence are reasonable and necessary.~~

~~(e)(d) All applications for a reasonable accommodation shall be considered by the town's Special Magistrate pursuant to the quasi-judicial procedures of section 2-2 of the Town Code.~~

(1) Applicants for a reasonable accommodation shall have the burden of establishing that the individuals on whose behalf the application has been submitted are protected under the provisions of the FHA and/or ADA. The applicant shall also demonstrate that the accommodation being sought for all of the individuals who will occupy the recovery residence is reasonable and necessary.

(2) The town's special magistrate shall consider requests for reasonable accommodation, and shall determine whether: the requested accommodation is reasonable and necessary; the recovery residence has been certified by a state approved credentialing entity or is recognized or sanctioned by Congress to operate the proposed recovery residence; the proposed recovery residence is managed by a recovery residence administrator who has been certified by a state approved credentialing entity unless the recovery residence is one that has been recognized or sanctioned by Congress to operate the proposed recovery residence; whether the approval of the request would create an

administrative and/or financial burden on the town; and the extent to which the request would fundamentally alter the zoning scheme of the town.

~~The town shall be responsible for mailing via certified mail a notice containing the date and time of the Special Magistrate's hearing to consider the application.~~

- (3) The Special Magistrate must may: (1) grant the reasonable accommodation application as requested in the application; (2) grant a portion of the application determined by the Special Magistrate to be a reasonable accommodation given the circumstances and the nature of the request (3) grant the application with conditions to effectuate a reasonable accommodation; or (4) deny the reasonable accommodation requested. The special magistrate may impose conditions on the operation of the recovery residence to ensure that the residents thereof are protected; and that the public's health, safety and general welfare will be furthered. If denied, the special magistrate must state with specificity the objective, evidence-based reasons for denial and identify any deficiencies or actions necessary for reconsideration.
- (4) The town magistrate shall issue a final written determination on the application within 60 days of a completed application, unless the parties agree in writing to a reasonable extension of time.
- (5) If a final written determination is not issued within 60 days after receipt of a completed application, the request is deemed approved unless the parties agree in writing to a reasonable extension of time.
- (6) All decisions of the Special Magistrate shall be in writing. The written decision of the Special Magistrate shall constitute a final order and shall be sent to the applicant by certified mail, return receipt requested, at the address specified by the applicant on the application form.
- (7) If denied the applicant may file a notice of appeal of the final order by writ of certiorari within 30 days of the date it is rendered.
- (f) All reasonable accommodation requests approved by the special magistrate and implemented by an applicant are valid for one year.
- (e) All reasonable accommodation requests approved by the special magistrate shall be implemented within 120 days from approval, or the approval shall be considered expired.
- (g) All approved and implemented reasonable accommodations shall be submitted annually to the special magistrate, prior to the anniversary date of the special magistrate's initial approval of the reasonable accommodation request the re-certification of the reasonable accommodation by the special magistrate.
- (h) Those residences which have previously obtained a reasonable accommodation from the town magistrate shall request for the renewal of the reasonable accommodation for a one year term no later than October 1, 2018. In the event, that a re-certification of the reasonable accommodation previously granted by the

magistrate is not made, the reasonable accommodation previously granted by the magistrate shall be deemed to have expired.

- (i) An applicant for a reasonable accommodation, or for re-certification by the magistrate of a reasonable accommodation previously granted, shall submit an application on the town's form and provide all of the information requested in the form to the department.
- (j) The town's special magistrate shall consider requests for reasonable accommodation, including re-certifications, and shall determine whether: the requested accommodation is reasonable and necessary; the recovery residence has been certified by a state approved credentialing entity, or is recognized or sanctioned by Congress to operate the proposed recovery residence; the proposed recovery residence is managed by a recovery residence administrator who has been certified by a state approved credentialing entity unless the recovery residence is one that has been recognized or sanctioned by Congress to operate the proposed recovery residence; the approval of the request would create an administrative and/or financial burden on the town; and the extent to which the request would fundamentally alter the zoning scheme of the town.
- (k) The special magistrate may impose conditions on the operation of the recovery residence to ensure that the residents thereof are protected; and that the public's health, safety and general welfare will be furthered.
- (l) The requirements herein shall apply to those individuals, qualifying entities or housing providers who have previously been granted a reasonable accommodation, are requesting re-certification of the reasonable accommodation; and those who request a reasonable accommodation to operate a recovery residence in the town after the effective date of this section.
- (f) All approved reasonable accommodations shall obtain a business tax receipt from the Town prior to commencing operation.

(g) Revisions to Original Approval Order

Any changes to the use or property desired by the applicant or identified by the Town, state, or any certifying or licensing entity after approval which require an additional reasonable accommodation or amendment to the original reasonable accommodation approval shall be processed as an amendment to the original approval and such amendment application shall follow the same application and review process set forth herein for an original reasonable accommodation request.

(h) Revocation of reasonable accommodation.

- (1) Any reasonable accommodation received shall be deemed revoked if the applicant or the property upon which the accommodation is granted is found in violation of any conditions of the approval granting the reasonable

accommodation by a court of law or by the special magistrate hearing code enforcement cases.

(2) Failure to obtain state certification or a required state license, or failure to maintain state certification or a required state license or alternate certification permitted by this section if not reinstated in 120 days, shall result in revocation of the reasonable accommodation and cessation of operations within sixty (60) days of termination of the license

(i) This section does not relieve the Town of its obligations under the Fair Housing Amendments Act of 1988 (42 U.S.C. Section 3601 et. seq/ and Title II of the Americans with Disabilities Act (42 U.S.C. Section 12131 et. seq. The regulations for which the applicant is seeking a reasonable accommodation must not facially discriminate against or otherwise disparately impact the applicant

(m)(i) If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word in this section is declared unconstitutional by a court of competent jurisdiction, the declared unconstitutional provision shall not affect any other part, section, subsection, paragraph, sentence, phrase, clause, term, or word of this section.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 4. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. Codification. The sections of the Ordinance may be made a part of the Town Code of Laws and Ordinances and may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

Section 6. Effective Date. This Ordinance shall take effect upon execution.