

ORDINANCE 2025-24 - AN ORDINANCE OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 23 "LAND DEVELOPMENT REGULATIONS", ARTICLE 1 "GENERAL PROVISIONS," DIVISION 2 "DEFINITIONS," SECTION 23.1-12 DEFINITIONS AND ARTICLE 2 "ADMINISTRATION," DIVISION 3 "PERMITS," SECTION 23.2-34 REQUEST FOR REASONABLE ACCOMMODATION FOR DISABILITY; AND PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE

WHEREAS, the City recognizes that the Fair Housing Act as amended (42 U.S.C. §3601) provides protections for persons with disabilities; and

WHEREAS, the Legislature enacted Section 397.487(15), Florida Statutes, that requires the City adopt an ordinance establishing procedures for review and approval of recovery residences, including a process for requesting reasonable accommodations, by January 1, 2026; and

WHEREAS, the City currently has a process for review and approval of reasonable accommodations in the Land Development Regulations that is used for review and approval of recovery residences; and

WHEREAS, the City's process for review and approval of reasonable accommodations is proposed to be amended in accordance with Section 397.487(15) and (16); and

WHEREAS, recovery residences are similar in function and performance to multi-family uses; and

WHEREAS, like all residential uses, the overcrowding provisions in the City's adopted housing code determines the maximum number of occupants of a residence for people with disabilities no matter how many the zoning code would allow, with or without a reasonable accommodation request; and

WHEREAS, the Fair Housing Act affords no protections to individuals with or without disabilities who present a direct threat to the persons or property of others, provided however, that determining whether someone poses such a direct threat must be made on an individualized basis, and cannot be based on general assumptions or speculation about the nature of a disability; and

WHEREAS, the Planning and Zoning Board, in its capacity as the local planning agency, considered the proposed amendments at a duly noticed public meeting; and

WHEREAS, the Historic Resources Preservation Board, in its capacity as the local planning agency, considered the proposed amendments at a duly noticed public meeting; and

WHEREAS, the City Commission has reviewed the proposed amendments, held a public hearing, and has determined that it is in the best interest of the public health, safety, and general welfare of the City to adopt this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, that:

Section 1: The foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are made a specific part of this ordinance as if set forth herein.

Section 2: Chapter 23 "Land Development Regulations, Article 1 "General Provisions," Division 2 "Definitions," Section 23.1-12 "Definitions" is hereby amended by adding the words shown in underline type as indicated in **Exhibit A**.

Section 3: Chapter 23 "Land Development Regulations, Article 2 "Administration," Division 3 "Permits," Section 23.2-34 "Request for reasonable accommodation for disability," is hereby amended by adding the words shown in underline type and deleting the words struck through as indicated in **Exhibit B**.

Section 4: 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 5: Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 6: Codification. The sections of the ordinance may be made a part of the City Code of Laws and ordinances and may be re-numbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section", "division", or any other appropriate word.

Section 7: Effective Date. This ordinance shall become effective 10 days after passage.

The passage of this ordinance on first reading was moved by _____, seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Betty Resch
Vice Mayor Sarah Malega
Commissioner Christopher McVoy
Commissioner Mimi May
Commissioner Anthony Segrich

The Mayor thereupon declared this ordinance duly passed on first reading on the _____ day of _____, 2025.

The passage of this ordinance on second reading was moved by _____, seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Betty Resch
Vice Mayor Sarah Malega
Commissioner Christopher McVoy
Commissioner Mimi May

Commissioner Anthony Segrich

The Mayor thereupon declared this ordinance duly passed on the _____ day of _____, 2025.

LAKE WORTH BEACH CITY COMMISSION

By: _____
Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, MMC, City Clerk

EXHIBIT A

Chapter 23

LAND DEVELOPMENT REGULATIONS ARTICLE 1 "GENERAL PROVISIONS"

Article 1, "General Provisions," Division 2, "Definitions"

Sec. 23.1-12. – Definitions.

Recovery residence: A residential dwelling unit, the community housing component of a licensed day or night treatment facility with community housing, or other form of group housing, which 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.

EXHIBIT B

Chapter 23

LAND DEVELOPMENT REGULATIONS ARTICLE 2 "ADMINISTRATION"

*Article 2, "Administration," Division 3, "Permits"***Sec. 23.2-34. – Request for Reasonable Accommodation for Disability.**

- a) *Purpose.* The purpose of this section is to implement a procedure for processing requests for reasonable accommodation to the City's Code of Ordinances, regulations, rules, policies, practices, services, programs and activities for qualified persons with disabilities as required by the Federal Fair Housing Act ("FHA"), Americans with Disabilities Act ("ADA") and Rehabilitation Act ("RA"). ~~Any qualified person with disabilities may request a~~ A reasonable accommodation may be requested for any qualified person(s) with disabilities or qualifying entity with respect to the City's Code of Ordinances, regulations, rules, policies, practices, services, programs or activities, or LDRs, pursuant to the procedures set out in this section.
- b) *Definitions.*
1. "Qualified person with disabilities" means an individual that meets the definition of a "qualified individual with a disability" under the ADA (42 U.S.C. 12131); "individual with a disability" under the RA (29 U.S.C. 705); a person with a "handicap" under the FHA (42 U.S.C. 3602); or, a "qualifying entity" under this section.
 2. "Qualifying entity" includes but is not limited to an entity that meets the definition of a sponsoring agency pursuant to F.S. § 419.001.
- c) *Application.*
1. ~~A request by a qualified person with disabilities for reasonable accommodation for a~~ qualified person(s) with disabilities or qualifying entity under this section, including in relation to an existing or proposed certified recovery residence, shall be made by completion of a reasonable accommodation application available from the city's community sustainability department.
 2. The reasonable accommodation application shall contain such questions and requests for information as are necessary for processing the reasonable accommodation request, ~~including but not limited to:~~
 - a. The name and contact information of the applicant and/or the applicant's authorized representative;
 - b. The name and contact information of the owner of the property at which the reasonable accommodation is requested;
 - c. The property address and parcel control number of the property at which the reasonable accommodation is requested;
 - d. A description of the accommodation requested, the specific regulation or policy from which relief is sought, and a justification statement describing why the requested accommodation is necessary in order for person(s) with disabilities to live in the dwelling; and
 - e. The type of license and or certificate for the property issued by the State of Florida or other credentialing entity, including the license or certificate number and a copy of the license or certificate, if applicable. Recovery residences

requesting a reasonable accommodation must be certified by the Florida Association of Recovery Residences.

3. The City shall date-stamp the reasonable accommodation application upon receipt.

- d) Fee. There shall be no fee imposed by the city in connection with a request for reasonable accommodation under this section. The city shall have no obligation to pay an applicant's attorney's fees or costs in connection with the request.
- e) Findings for reasonable accommodation. In determining whether the reasonable accommodation request shall be granted or denied, the requesting party shall be required to:
1. Establish that ~~he~~ the individual(s) is protected under the FHA, ADA or RA by demonstrating that ~~he~~ the individual(s) meets the definition of a qualified person with disabilities under the ADA or RA or a person with a handicap under the FHA or that he meets the definition of a qualifying entity under this section.
 2. Demonstrate that the reasonable accommodation being sought is both reasonable and necessary.
- f) Notice of determination. City staff shall have the authority to consider and act on requests for reasonable accommodation based on the information provided on the reasonable accommodation application. City staff shall issue a written notice of determination ~~by certified mail, return receipt requested, within forty-five (45) sixty (60) days of the date of receipt of a completed reasonable accommodation application, and may, in accordance with federal law:~~
1. Grant the accommodation requested, with or without conditions of approval;
 2. Grant a portion and deny a portion of the accommodation requested, with or without conditions of approval; or
 3. Deny the accommodation requested in writing, stating the specific, objective, and evidence-based grounds for the denial and identifying any deficiencies or actions necessary for reconsideration.

If a final written determination, including a notice of abandonment as described in subsection (g), is not issued within sixty (60) days after receipt of a completed application, the request shall be deemed approved unless the parties agree in writing to a reasonable extension of time.

- g) Additional information. If reasonably necessary to reach a determination on the request for reasonable accommodation, city staff may, ~~prior to end of the forty-five-day period~~ within thirty (30) days after receipt of the application, request additional information from the requesting party, specifying in sufficient detail what information is required. The requesting party shall have ~~fifteen (15)~~ thirty (30) days after the date of the request for additional information to provide the requested information. In the event that a request for additional information is made, the ~~forty-five sixty~~ thirty-day period to issue a written notice of determination shall no longer be applicable and city staff shall issue a written notice of determination within thirty (30) days after receipt of the additional information. If the requesting party fails to provide the requested additional information within said ~~fifteen~~ thirty-day period, city staff shall issue a written notice advising the requesting party that their reasonable accommodation application has been deemed abandoned due to their failure to timely submit the additional information requested. No further action shall be made by city staff with regard to abandoned requests for reasonable accommodation.

h) Stay of enforcement. While the application for reasonable accommodation is pending, the city will not enforce the subject ordinance, regulation, rule, policy, or practice against the requesting party.

i) Revocation. A granted reasonable accommodation may be revoked for cause, including but not limited to:

1. Violation of the conditions of approval for the reasonable accommodation;

2. Lapse, revocation, or failure to maintain the certification or licensure provided in the reasonable accommodation application, if not reinstated within 180 days; and/or

3. Change of occupants or ownership such that the qualified person(s) with disabilities or qualified entity no longer reside at, own, operate, or utilize the property for which the reasonable accommodation was granted.