

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; ARTICLE 2 "ADMINISTRATION," DIVISION 3 "PERMITS," SECTION 23.2-27 WAIVER AND SECTION 23.2-34 REQUEST FOR REASONABLE ACCOMMODATION FOR DISABILITY; ARTICLE 3 "ZONING DISTRICTS," DIVISION 1, "GENERALLY," SECTION 23.3-6 USE TABLES; ARTICLE 4 "DEVELOPMENT STANDARDS," ADDING A NEW SECTION 23.4-27 RECOVERY RESIDENCES; 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 Fair Housing Act does not preempt local zoning laws or preclude the adoption, amendment or enforcement of zoning regulations by the City of Lake Worth Beach pursuant to its local police powers as long as the zoning regulations are consistent with state and federal laws, including the Fair Housing Act as amended; and

WHEREAS, the legislative history of the Fair Housing Amendments Act of 1988 cautions that local zoning regulations are prohibited that result "from false or over-protective assumptions about the needs of handicapped people, as well as unfounded fears of difficulties about the problems that their tenancies may pose." H.R. Rep. No. 711, 100th Cong. 2D Session, Reprinted in 1988 U.S.C.C.A.N. 2173, 2192 (1988); and

WHEREAS, zoning regulation of residences for people with disabilities should seek to achieve legitimate government interests, actually achieve those legitimate government interests, and be the least drastic means of actually achieving those legitimate government interests; and

WHEREAS, the Fair Housing Act does not provide for local land use policies or actions that treat groups of persons with certain disabilities differently than groups of people with other disabilities; and

WHEREAS, clustering of community and/or recovery residences on a block and neighborhood reduces their efficiency by obstructing their ability to foster normalization and community integration, which is one of the essential purposes of a community or recovery residence for people with disabilities; and

WHEREAS, for residents of those recovery residences to achieve long-term sobriety, it is critical to establish regulations and procedures that assure a proper family-like living environment free of drugs and alcohol, avoid incompetent, unethical, or unscrupulous operators, and protect this vulnerable population from abuse, mistreatment, exploitation, enslavement, and theft; and

WHEREAS, community residences for people with disabilities and recovery residences are similar in function and performance to multi-family uses; and

52 **WHEREAS**, like all residential uses, the overcrowding provisions in the City's adopted
53 housing code determines the maximum number of occupants of a residence for people with
54 disabilities no matter how many the zoning code would allow, with or without a reasonable
55 accommodation request; and
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57 **WHEREAS**, the Fair Housing Act affords no protections to individuals with or without
58 disabilities who present a direct threat to the persons or property of others, provided however,
59 that determining whether someone poses such a direct threat must be made on an individualized
60 basis, and cannot be based on general assumptions or speculation about the nature of a disability;
61 and

62 **WHEREAS**, community residences for people with disabilities and recovery residences
63 constitute a different type of land use than vacation rentals or other transient lodging that warrants
64 different zoning treatments within the context of the Florida Statutes; and
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66 **WHEREAS**, the State of Florida in F.S. 397.487(15) requires the City to adopt an
67 ordinance establishing procedures for review and approval of recovery residences, including a
68 process for requesting reasonable accommodations, by January 1, 2026; and
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70 **WHEREAS**, the City has prepared and reviewed an amendment to the Land Development
71 Regulations in accordance with F.S. 397.487(15) and (16) as well as further clarifying processes
72 for establishing recovery residence uses within the City; and
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74 **WHEREAS**, the Planning and Zoning Board, in its capacity as the local planning agency,
75 considered the proposed amendments at a duly advertised public hearing; and
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77 **WHEREAS**, the Historic Resources Preservation Board, in its capacity as the local
78 planning agency, considered the proposed amendments at a duly advertised public hearing; and
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80 **WHEREAS**, the City Commission has reviewed the proposed amendments, held a public
81 hearing, and has determined that it is in the best interest of the public health, safety, and general
82 welfare of the City to adopt this ordinance.
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84 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF**
85 **LAKE WORTH BEACH, FLORIDA, that:**
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87 **Section 1:** The foregoing "WHEREAS" clauses are ratified and confirmed as being
88 true and correct and are made a specific part of this ordinance as if set forth herein.
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90 **Section 2:** Chapter 23 "Land Development Regulations, Article 1 "General
91 Provisions," Division 2 "Definitions," Section 23.1-12 "Definitions" is hereby amended by adding
92 the words shown in underline type as indicated in **Exhibit A**.
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94 **Section 3:** Chapter 23 "Land Development Regulations, Article 2 "Administration,"
95 Division 3 "Permits," Section 23.2-27 "Waiver," is hereby amended by adding the words shown in
96 underline type and deleting the words struck through as indicated in **Exhibit B**.
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98 **Section 4:** Chapter 23 "Land Development Regulations, Article 2 "Administration,"
99 Division 3 "Permits," Section 23.2-34 "Request for reasonable accommodation for disability," is
100 hereby amended by adding the words shown in underline type and deleting the words struck
101 through as indicated in **Exhibit C**.
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Section 5: Chapter 23 "Land Development Regulations, Article 3 "Zoning Districts," Division 1 "Generally," Section 23.3-6 "Use tables," is hereby amended by adding the words shown in underline type as indicated in **Exhibit D**.

Section 6: Chapter 23 "Land Development Regulations, Article 4 "Development Standards," is hereby amended by adding thereto a new Section 23.4-27 "Recovery residences," to read as shown in underline type in **Exhibit E**.

Section 7: 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 8: Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 9: 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 10: 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

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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 dwelling unit for the exclusive residential use of individuals enrolled in an off-premises clinical program that is licensed by the Department of Children and Families to provide substance abuse services to individuals in recovery. The recovery residence provides a living environment for unrelated residents who operate as the functional equivalent of a family with mutual support furnished by other residents of the recovery residence and supportive staff as may be necessary; the recovery residence seeks to emulate a biological family to normalize its residents and integrate them into the surrounding community.

EXHIBIT B

Chapter 23

LAND DEVELOPMENT REGULATIONS ARTICLE 2 "ADMINISTRATION"

Article 2, "Administration," Division 3, "Permits"

Sec. 23.2-27 – Waiver.

- a) *Community residence or recovery residence.* An applicant ~~for a permit~~ for a community residence or recovery residence may request that the planning and zoning board or the historic resources preservation board, as applicable, grant it a waiver from the distance requirements of these LDRs. See article 4 of these LDRs.
1. An application for a waiver shall be made in writing upon and application form approved by the department for community sustainability, and shall be accompanied by applicable fees. City staff shall review the application in accordance with these LDRs and prepare a report that summarizes the application and the effect of the proposed waiver, including whether the application complies with the standards for granting a waiver.
 2. Notice of the public hearing before the appropriate board shall be by publication, mail and posting pursuant to the provisions in section 23.2-15. The applicant must provide substantial competent evidence to the board that a waiver is required in order to prevent practical difficulties in the siting of its community residence or recovery residence, and that it otherwise meets the requirements of the zoning district in which it is located. The board may grant the waiver, grant it with conditions, or deny the waiver.
 3. The applicant and any affected party may appeal the decision of the board to the city commission pursuant to section 23.2-17.
 4. A waiver becomes null and void and of no effect if the related building permit and/or business license has not been issued within twelve (12) months from and after the date of its final approval. A waiver shall only be valid so long as the business license for the use remains active under the operator for whom it was issued. A change in use and/or operator shall render the waiver null and void and of no effect.
- b) *Historic district or landmark property.* A waiver of land development regulations may be granted as part of a certificate of appropriateness for a property within a designated historic district or landmark property. See section 23.5-4 of these LDRs.
- c) A waiver of limited land development regulations relating to site development requirements only, and excluding use regulations, may be requested to certain sections or subsections of Chapter 23 - Land Development Regulations where it is expressly stated in that section or subsection that a waiver may be requested to specified provisions for approval by the applicable review board. A variance per section 23.2-26 shall be required for all other sections or subsections of Chapter 23 where ~~it is not~~ clearly indicated that a waiver or an administrative adjustment per section 23.2-28 may be requested.
- d) The waiver shall meet the following review criteria:
1. The waiver requested is the smallest or minimum modification necessary.
 2. The waiver request shall not negatively impact adjacent property owners or protected land uses as described in section 23.1-12.

- 236 3. The applicable review board has determined that the waiver is appropriate in massing,
237 scale, visual impact and does not create noise, light or other impacts greater than
238 similar improvements permitted in the immediate area.
- 239 4. The waiver request supports the goals, objectives and policies of the City's
240 Comprehensive Plan.
- 241 5. The waiver request is supportive of currently permitted uses, and shall not create or
242 increase a nonconformity with regards to use as described in section 23.5-3.
- 243 6. For community residences and recovery residences, the waiver shall also meet the
244 following criteria:
 - 245 A. The proposed community residence or recovery residence will not interfere with the
246 normalization and community integration of the residents of any existing
247 community residence or recovery residence, and that the presence of other
248 community residences or recovery residences will not interfere with the
249 normalization and community integration of the residents of the proposed
250 community residence or recovery residence.
 - 251 B. The proposed community residence or recovery residence in combination with any
252 existing community residences or recovery residences will not alter the residential
253 and/or mixed-use character of the surrounding neighborhood by creating an
254 institutional atmosphere or by creating or intensifying a de facto social service
255 district by concentrating community residences or recovery residences on a block
256 or in a neighborhood.
 - 257 C. The applicant and/or the proposed community residence has been licensed by the
258 State of Florida as required per Section 23.1-12 and will meet the city's
259 requirements for a community residence.
 - 260 D. The applicant and/or the proposed recovery residence has been certified through
261 the Florida Association of Recovery Residences (FARR) and will meet the city's
262 requirements for a community residence.

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264 e) Revocation. A granted waiver may be revoked for cause, including but not limited to:

- 265 1. General:
 - 266 A. Violation of the conditions of approval for the waiver.
- 267 2. Recovery residences and community residences:
 - 268 A. Lapse, revocation, or failure to maintain the certification or licensure provided in the
269 waiver application, if not reinstated within 180 days; and/or
 - 270 B. Change of occupants or ownership such that the qualified person(s) with disabilities
271 or qualified entity no longer reside at, own, operate, or utilize the property for which
272 the waiver was granted.

EXHIBIT C

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~~ 1. A request by a qualified person(s) with disabilities or qualifying entity for reasonable accommodation ~~for a~~ 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-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.

EXHIBIT D

Chapter 23

LAND DEVELOPMENT REGULATIONS ARTICLE 3 "ZONING DISTRICTS"

Article 3, "Zoning Districts" Division 1, "Generally"

Sec. 23.3-6. – Use Tables.

Under separate cover.

EXHIBIT E

Chapter 23

LAND DEVELOPMENT REGULATIONS ARTICLE 4 "DEVELOPMENT STANDARDS"

Sec. 23.4-27. – Recovery residences.

a) *General provisions.* Recovery residences, as defined in Section 23.1-12, may be permitted in multi-family and mixed use zoning districts.

1. Recovery residences shall be allowed in multi-family and mixed use zoning districts, provided such residences are not located within a radius of one thousand (1,000) feet of another recovery residence so that the proposed recovery residence does not lessen nor interfere with the normalization and community integration of the residents of existing recovery residences or combine with any existing recovery residences to contribute to the creation or intensification of a de facto social service district.

2. Recovery residences shall follow all regulations of their subject zoning district, including maximum permitted number of dwelling units.

3. Recovery residences shall be considered a residential use and shall not be considered transit public lodging, regardless of whether an individual resident's time at the property totals less than sixty (60) days.

4. Documentation that a subject recovery residence meets the standards in this section shall be submitted as part of the City of Lake Worth Beach business license application.

b) *Certification and licensure.* Recovery residences shall have and maintain certification through the Florida Association of Recovery Residences (FARR). Administrators of recovery residences shall have and maintain Certified Recovery Residence Administrator (CCRA) certification through the Florida Certification Board.

1. Documentation of FARR and CCRA certifications shall be submitted annually as part of the recovery residence's City of Lake Worth Beach business license application and/or business license renewal.

2. Lapse, revocation, or failure to maintain the certification or licensure required in this section shall be cause to not issue, not renew, suspend, and/or revoke the subject property's City of Lake Worth Beach business license.

c) *Design and performance standards.*

1. Unrelated residents. Residents within a recovery residence shall operate as the functional equivalent of a family; therefore, recovery residences shall be exempt from the maximum the number of unrelated residents in a dwelling unit as defined in Section 23.1-12, and shall be regulated by the city's minimum housing code.

2. Recovery residences shall comply with the city's established minimum housing code requirements, including but not limited to occupancy limitations, light requirements, and ventilation requirements.

A. A dimensioned floor plan shall be submitted as part of the business license application, demonstrating how the proposed recovery residence complies with the minimum bedroom and living area requirements in Section 2-75.6.3.

B. The number of persons occupying a residential unit shall not create conditions that endanger the life, health, safety or welfare of the occupants or that otherwise violate the provisions of the "occupancy limitations" subsection (Section 2-75.6.3). Should the building official determine through a use and occupancy inspection that

452 the number of residents approved through the business license process need to
453 be reduced, then that determination shall take precedence over the business
454 license approval for the maximum number of residents permitted.

455 3. Parking. Parking requirements for a recovery residence shall comply with the equivalent
456 residential parking requirements.

457 A. If a proposed recovery residence cannot meet the minimum parking requirements,
458 the recovery residence shall be required to provide at least fifty percent (50%) of
459 the required parking spaces on-site and shall pay a fee-in-lieu for each space that
460 is not provided to the city in the amount as specified in the city's annual schedule
461 of fees and charges for services.

462 4. Signs. All signage shall be regulated according to the district in which the recovery
463 residence is located and Section 23.5-1, Signs.

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465 d. *Reasonable accommodation.* Reasonable accommodation from any of these requirements,
466 except zoning district and density requirements, may be requested. Requests for
467 reasonable accommodation(s) for recovery residences shall follow the procedures
468 established in Section 23.2-34.

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470 e. *Waiver.* A waiver to the distance radius requirement may be requested through the
471 provisions in Section 23.2-37.
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