

1st Reading _____

2nd Reading _____

ORDINANCE 2026-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WESTLAKE, FLORIDA, AMENDING THE CITY'S LAND DEVELOPMENT CODE BY CREATING SECTION _____ ENTITLED "REASONABLE ACCOMMODATION"; PROVIDING FOR INTENT, PURPOSE AND DEFINITIONS; PROVIDING FOR THE ESTABLISHMENT OF PROCEDURES FOR THE REVIEW AND APPROVAL OF CERTIFIED RECOVERY RESIDENCES; PROVIDING FOR REASONABLE ACCOMMODATION TO CONFORM WITH LEGISLATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council finds that regulating recovery-residence within the City of Westlake is necessary to protect the public health, safety, and welfare of residents; and

WHEREAS, after due consideration and public input, the City Council finds that this ordinance serves the public welfare;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WESTLAKE, FLORIDA THAT:

SECTION 1. Authority. This ordinance is adopted pursuant to the general police powers of the City under Chapter 166, Florida Statutes, and provisions of the City Code of Ordinances.

SECTION 2. Subpart B, entitled "Land Development Regulations" is hereby amended to create a new Section _____ entitled "Reasonable Accommodation" as follows:

Sec. _____ . Reasonable Accommodation.

(a) _____ Intent and Purpose, Definitions, Fees.

(1) _____ This Section sets forth the City's provisions for processing requests for a reasonable accommodation to the City's residential housing ordinances, rules, policies, and procedures for persons with disabilities as provided by the Federal Fair Housing Amendments Act (42 U.S.C. 3601, et seq.) ("FHA") and Title II of the Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.) ("ADA").

(2) _____ The City has considered recent studies commissioned by the City of Delray Beach (titled, "Delray Beach, Florida: Principles to Guide Zoning for Community Residences for People with Disabilities," and dated August, 2017), the City of Pompano Beach (titled, "Pompano Beach, Florida: Principles to Guide Zoning for Community Residences for People with Disabilities," and dated February, 2018), and the City of Fort Lauderdale (titled, "Principles to Guide Zoning for Community Residences for People with Disabilities," and dated February, 13, 2018), which studies were prepared by Mr. Daniel Lauber, AICP, and the study by Daniel Lauber, entitled "Reforming State and Local Zoning for Community Residences for People With Disabilities and for Recovery Communities (River Forest, IL: Planning/Communications, July 2024)". These studies identify significant public purposes of furthering beneficial health goals for certain types of disabled residents, in terms of facilitating community integration and normalization. The studies, in part, conclude that when recovery

residences are clustered in an area, or when a recovery residence is located within six hundred and sixty (660) feet from another recovery residence, there are material increased risks that facilitating community integration and normalization will be adversely affected. The regulations in this Section concerning the rebuttable presumptions which arise when recovery residences locate within a six hundred sixty (660) foot separation standard are designed to further such significant public interests.

(3) For purposes of this Section, an "Administrative Appeal" is an available administrative remedy for an applicant to seek review of a City Manager Determination in certain cases. The remedy involves a de novo, quasi-judicial review of the application which is conducted by the Special Magistrate in accordance with Section _____ of this Code.

(4) A "Community Residence" for purposes of this Section is a residential living arrangement of more than three (3) individuals living together in a single dwelling unit, where: (a) not all of such individuals are related to each other by bonds of consanguinity, marriage, legal adoption, or other qualifying circumstances identified in the definition of "Family" in Section _____ of this Code; (b) one (1) or more of such individuals is experiencing a disability; (c) all such individuals are living as a single, functional family; and (d) the disabled resident(s) are in need of the mutual support furnished by other residents of the dwelling unit, as well as any incidental support services, if any, provided there. The residents may be self-governing or supervised by a sponsoring entity or its staff, which provides habilitative or rehabilitative services, related to the residents' disabilities. The Community Residence seeks to emulate a biological family to normalize its residents and integrate them into the surrounding community. Its primary purpose is to provide shelter in a family-like environment, and any treatment is incidental. The supportive inter-relationships between residents are an essential component of a Community Residence. A Community Residence which has received and maintained a reasonable accommodation pursuant to this Section shall be considered a residential "Family" use for the purposes of the City's land development regulations, so as to implement the policy considerations of the FHA and ADA. A Community Residence does not include any other group living arrangement for unrelated individuals who are not experiencing a disability, nor does the definition include residential facilities for prison pre-parolees or sex offenders. Community Residences do not include community residential homes that are defined in Section 419.001(1)(a), Florida Statutes, as amended, and licensed by the Florida Agency for Persons with Disabilities, the Florida Department of Elderly Affairs, the Florida Agency for Health Care Administration, or the Florida Department of Children and Families. Community Residences include functional family living arrangements of four (4) or more unrelated individuals that reside in recovery residences which are certified by the credentialing entity designated under Section 397.487 of the Florida Statutes, as amended, or which are operated in accordance with the Oxford House Manual C.

(5) For purposes of this Section, a "Determination" shall mean a decision on an application for a reasonable accommodation which is made by the City Manager under the provisions of Subsection (f) of this Section, or by the Special Magistrate under the provisions of Section _____ of this Code. The word "Determine" means to make a Determination.

(6) For purposes of this Section, a "disability" is a physical or mental impairment that substantially limits one or more of an individual's major life activities, impairs an individual's ability to live independently, having a record of such impairment, or being regarded as having such an impairment. People experiencing or possessing a "disability" for purposes of this Section do not include individuals who are currently using alcohol or illegal drugs, or who are currently using legal drugs to which they are addicted, or who constitute a direct threat to the health and safety of others. Except as provided in the preceding sentence, an individual experiencing a "disability" is "disabled," and this will include a person that qualifies as disabled or handicapped under the FHA or ADA, or both.

(7) For purposes of this Section, a "Lot" shall be as defined in Section _____ of this Code.

(8) For purposes of this Section, a "pending application" shall mean an application for a reasonable accommodation which has been approved by the Planning Department acceptance and/or a City Manager Determination and for which:

- a. The Determination has not been made; or,
- b. For City Manager Determinations, the Determination has been made, and:
 - 1. The thirty (30) day time frame for an Administrative Appeal has not run, or
 - 2. If an Administrative Appeal has been sought, either a Final Order of the Special Magistrate has not been rendered but may still be timely made, or if rendered, such Final Order remains subject to judicial review (i.e. by Petition for Writ of Certiorari, and thereafter, further discretionary, appellate review); or,
- c. For Special Magistrate Determinations, the Determination has been made and remains subject to judicial review (i.e. by Petition for Writ of Certiorari, and thereafter, further discretionary, appellate review).

(9) For purposes of this Section, a "reasonable accommodation" is a change, exception, or adjustment to an ordinance, rule, policy, or procedure that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including any public or common-use spaces thereof.

(10) There shall be no fee imposed by the City in connection with an application for a reasonable accommodation under this Section or for an Administrative Appeal of a City Manager Determination to the Special Magistrate. The City shall have no obligation to pay an applicant's or intervenor's attorney fees or costs in connection with an application, or an Administrative Appeal, or any other proceeding before the Special Magistrate.

(b) Applications for a Reasonable Accommodation.

(1) A request for reasonable accommodation shall be made by completing a reasonable accommodation request form. The form shall be developed and modified from time to time by the Planning Department consistent with law, and shall be maintained by the Planning Department.

(2) When an applicant has completed the form the form and information shall be filed with the Planning Department, and the Planning Department shall file stamp the form with the date its filing was accepted, and such form and information shall thereafter be considered an application. The reasonable accommodation application shall contain responses to questions, and any additional information as the applicant may determine is necessary for processing and evaluating the reasonable accommodation request. The reasonable accommodation request form shall be accessible on the City's web-site and accessible at the Planning Department. In addition to posting the reasonable accommodation request form on the City's website, the City shall provide notice by U.S. mail to all property owners within three hundred feet on the property identified within the reasonable accommodation request.

(3) The applicant may be the property owner, a tenant, a governmental agency, a parent or guardian of the disabled person, a provider of services to the disabled person, or the disabled person; however, in all cases, if the property owner is not the applicant, the property owner shall join in and consent to the application and shall be treated as an "applicant" for the purposes of this Section. In all cases, the applicant and the property owner shall be responsible to comply with the requirements of this Section, and with the conditions or limitations of the Determination.

(4) Should the information provided with a reasonable accommodation request form include medical information or records, including records indicating the medical condition, diagnosis or medical history of a disabled individual, the disabled individual may, at the time such medical information is submitted, request that the City, to the extent allowed by law, treat such medical information as confidential information of the disabled individual. The City shall thereafter endeavor to provide written notice to the disabled individual, and the applicant, of any request received by the City for disclosure of the medical information or documentation which the disabled individual has requested be treated as confidential by the City. The City may cooperate with the disabled individual,

to the extent allowed by law, in actions initiated by such individual to oppose the disclosure of such medical information or documentation, but the City shall have no obligation to initiate, prosecute or pursue any such action, or defend against a request for such records, or to incur any legal or other expenses in connection therewith (whether by retention of outside counsel or allocation of internal resources), and the City may comply with any records request or judicial order without prior notice to the disabled individual.

(5) Submittal requirements. The application shall be made, in writing, and shall include the following information:

- a. For all applications:
 1. Name and contact information of the applicant;
 2. Signature of applicant;
 3. Date of application;
 4. Owner's consent to the application (it shall be presumed that the owner is as indicated by the most recent ad valorem tax roll information concerning the Lot);
 5. Information regarding the Residential Lot or Unit at which a reasonable accommodation is requested, including the address, and ad valorem tax folio number or property identification number;
 6. The specific ordinance, rule, policy, or procedure for which the reasonable accommodation is being requested;
 7. The specific relief sought by the application and how such relief serves the special needs of the disability at issue;
 8. Information concerning whether the relief requested by the applicant is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy housing;
 9. If there is to be an on-site supervisor, staff, or manager serving the premises, provide the name and contact information (phone and email) for each, and whether they will reside on the Lot with the disabled persons(s);
 10. Relevant information pertaining to the disability;
 11. A description of all installations or modifications which have been made to improvements on the Lot after the date of the Lot's most recent closed building permit, or if there are none, an Affidavit of No Change executed by the property owner (for purposes of this Paragraph, the most recent "closed" building permit is that which was: a. issued for improvements or alterations which have passed all inspections and received a Certificate of Occupancy or a Certificate of Completion or equivalent, and b. either: (i) where only building permits meeting the requirements of a. above were issued prior thereto, or (ii) the building permit meeting the requirements of a. above was the first building permit issued for the Lot in question);
 12. A description of all installations and modifications to improvements for the Lot which are proposed to be made before or during the time frame the Determination is to be effective;
 13. Any other relevant information pertaining to the Lot, and the information solicited by the reasonable accommodation request form;
 14. An irrevocable confirmation by the applicant and the property owner (of the Lot) that the City may inspect the Lot's improvements for compliance with applicable provisions of the Florida Building Code and Florida Fire Prevention Code while the application is pending, and that the City may, after a Determination is issued which grants the accommodation or grants an alternative accommodation, periodically inspect such improvements, after reasonable notice and during reasonable times, for compliance with the terms and conditions of the Determination; and,
 15. The extent of services or programs which will be provided to disabled persons at the Lot, and whether the service provider is licensed or certified.

b. For applications pertaining to or relating to a Community Residence, the following additional submittals or information shall be required:

1. Whether the Community Residence operator or owner is currently certified by the credentialing entity designated under Section 397.487 of the Florida Statutes, as amended (or whether the Community Residence is currently certified by the credentialing entity designated under Section 397.487 of the Florida Statutes, as amended);

2. Whether the Community Residence is operated in accordance with the Oxford House Manual C;

3. If neither 1. nor 2. are applicable, information concerning:

(i) The identity, education, licensure, and training of staff servicing the Community Residence;

(ii) How the applicant will ensure the home will emulate a biological family;

(iii) How the home will be operated to achieve normalization and community integration;

(iv) If any property line of the Lot on which the Community Residence is proposed is within Six Hundred Sixty (660) Feet of the nearest property line of a Lot where an existing Community Residence is located, measured by airline measurement, information the applicant believes is important to consider in rebutting the presumptions which arise under Paragraph (a)(2) of this Section;

(v) How the rules and practices governing the Community Residence's operation will actually protect residents from abuse, exploitation, fraud, theft, insufficient support, use of illegal drugs or alcohol, and misuse of prescription medications;

(vi) A disclosure of all instances within the two (2) year period preceding the application of any evidence of resident abuse, exploitation, fraud, theft, insufficient support, use of illegal drugs or alcohol, and misuse of prescription medications;

(vii) A disclosure of the steps taken to address matters disclosed in (vi) above, how outcomes are measured for such steps, and the outcomes experienced as a result of such steps; and,

(viii) A disclosure of all services related to resident disabilities that are proposed to be provided and where such services will be provided;

4. The maximum number of individuals who will reside in the dwelling unit for the period of time that the Determination is to be effective; and,

5. Information concerning the relationship between the number of residents and the therapeutic benefits to the Community Residence's disabled residents.

c. If the application is missing any of the required information or additional information is required, the City shall notify the applicant in writing within thirty (30) days of the date the application was received. The City shall provide the applicant with thirty (30) days to respond to its request for required or additional information. If the applicant fails to provide the requested information within thirty (30) days, the application for reasonable accommodation shall be deemed abandoned, and the Planning Department shall notify the applicant by First Class Mail that the application has been denied as abandoned. The notice shall include the specific information the City requested that was not provided as the reason for denial-as-abandoned.

(c) Repetitive Applications, Qualified Stay.

(1) An application for a reasonable accommodation for a Lot shall not be accepted by the Planning Department (including an amendment to a prior application), during any time period:

a. In which the Lot has a pending application for a reasonable accommodation; or,

b. Is within a six (6) month period of time from the later of: 1. the date the most recent prior application for a reasonable accommodation for such Lot was accepted by the Planning Department, or 2. the date the Determination was issued for the most recent prior application for a

reasonable accommodation for such Lot (taking into consideration the possibility that an application for a reasonable accommodation may be withdrawn, or may be deemed withdrawn or abandoned, prior to a Determination being made).

(2) The provisions of Subsection (1) above shall not be applied to prevent a new application for a reasonable accommodation for the subject Lot which is:

a. Necessary as a result of new and materially different facts which a reasonable person would conclude were not foreseeable at the time the prior application was filed; and

b. Which relate to a different ordinance, rule, policy, or procedure than was (were) at issue in the prior application.

(3) Qualified automatic stay of enforcement.

a. In the absence of either a known specific condition which creates risks to life safety, or a prior Special Magistrate Final Order or a prior Court Final Judgment, after an application for reasonable accommodation is filed with the Planning Department, and during the time frame it is pending before the City, the City will take no action to enforce the specific municipal provision, regulation, policy, or condition which is the subject of the application.

b. The provisions of paragraph (3)a. above shall not affect the City's ability to enforce any municipal ordinance, rule, policy, or procedure which is not the subject of the application, or prevent the City from enforcing any federal or state or County law.

(d) Planner Advisory Review, other Department Reviews.

(1) The Planning Department shall review the application and prepare a report and recommendation. The Planning Department may request and obtain information from other Departments when processing the application, and may ask other Departments to comment on the application. When the Planning Department and recommendation is prepared, the application, the Planner report and recommendation, and any other comment(s) received by the Planning Department from other Departments which are referenced in the Planning Department report and recommendation will be referred to either the City Manager (for Determinations made pursuant to Section _____ of this Code), or by the Special Magistrate (for Determinations made pursuant to Section _____ of this Code).

(2) When the matter involves a modification or termination of a Determination (and the effective date thereof) which is referred by the City Manager to the Special Magistrate pursuant to Subsection (i)(5) below, the City Manager may direct one or more municipal Department(s) to issue a report and recommendation concerning the circumstances applicable to the matter in light of the criteria identified in Subsection (i)(5) below.

(e) Criteria for Evaluation of an Application for a Reasonable Accommodation.

(1) In evaluating an application for a reasonable accommodation, the Planning Department, and either the City Manager or Special Magistrate, as applicable shall consider:

a. Whether the requested accommodation is requested by or on the behalf of one or more individuals with a disability protected under federal or state law;

b. Whether an accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy housing;

c. The extent to which the relief requested would serve the special needs of the disability at issue;

d. The physical attributes and conditions of the subject Lot and structures and improvements thereon, and whether they are compliant with applicable provisions of the Florida Building Code and Florida Fire Prevention Code;

e. Whether the type of accommodation requested or the objective the accommodation

seeks will foreseeably impose an undue financial or administrative burden on the City (to determine these burdens, the City may consider: 1. prior experience with the applicant or operator, or property owner, or some or all of the foregoing, 2. prior experience at the Lot, 3. prior experience at other properties for which similar types of requests have been approved, 4. the City's financial resources, and 5. the City's personnel time and effort expended in the processes and procedures outlined in this Section, in ensuring the conditions and limitations of Determinations are followed, in providing services to the parcel and to other property where like Determinations have been issued, and in enforcing violations of law which relate to the Lot and to other property where like Determinations have been issued);

f. Any evidence that the accommodation would result in a threat to the health or safety of individuals, or damage;

g. The extent to which the accommodation may impair the policy interests served by the ordinance, rule, policy, or procedure affected by the application;

h. The extent to which a more tailored exception, modification, or alternative accommodation to the applicable ordinance, rule, policy, or procedure would affect the purposes served by the requested reasonable accommodation without the same degree of 1. foreseeable, accompanying burdens, or 2. impact to the policy considerations underlying the ordinance, rule, policy, or procedure in question, or 3. both 1. and 2.;

i. The extent to which the application, if granted, may foreseeably result in violations of other law relating to the premises (e.g. parking);

j. Any specific request or directive from any federal or state agency which has been made or received concerning the application; and,

k. Information provided by the applicant on the reasonable accommodation request form and information provided by the Planning Department and any other Department concerning the completed application. Information provided by City Departments may include information concerning a portion of the City to which certain uniform regulations and requirements or various combinations thereof apply under the provisions of the comprehensive zoning ordinance, as such portion of the City surrounding the Lot is demarcated in the professional opinion of the City Planner (the "Surrounding District"). Information provided by City Departments may include, but not be limited to, zoning and land use information, police incident data, fire rescue data, code enforcement data, false burglar or medical alarm data, census data, on-site and off-site physical conditions, photographs and aerials of subject parcel and of the Surrounding District, Surrounding District information and data (i.e. traffic routes that show the boundaries of the Surrounding District, interior street patterns, significant physical features, both natural and man-made [such as a canals and lakes], population data, school locations, park and recreation amenities, and municipal activity and projects), and any other relevant information concerning the application or issues relevant to the Determination of the application for a reasonable accommodation.

(2) When the application for a reasonable accommodation concerns or involves a Community Residence, in addition to the factors set forth in Subsection (1) above, the Planning Department shall evaluate the following additional criteria, and the City Manager and Special Magistrate shall not grant the application or an alternative application unless he or she reasonably concludes that the criteria in a., b., and c. below are met:

a. The Community Residence:

1. Is one whose owner or operator is certified by the credentialing entity designated under Section 397.487 of the Florida Statutes, as amended (or that the Community Residence is certified by the credentialing entity designated under Section 397.487 of the Florida Statutes, as amended), or,

2. Is operated in accordance with the Oxford House Manual C, or

3. Where neither 1. nor 2. is applicable:

(i) Will be operated in a manner effectively similar to the Community Residences described in 1. or 2.,

(ii) Staff, if any, will be adequately trained,

(iii) Will emulate a biological family,

(iv) Will be operated to achieve normalization and community integration,

(v) Rules and practices governing how the home is operated will protect residents from abuse, exploitation, fraud, theft, insufficient support, use of illegal drugs or alcohol, and misuse of prescription medications; and

b. The proposed Community Residence will not interfere with the normalization and community integration of the residents of any existing Community Residence and that the presence of other nearby Community Residences will not interfere with the normalization and community integration of the residents of the proposed Community Residence (in this regard, if any property line of the Parcel where a proposed Community Residence is to be located is within Six Hundred Sixty (660) Feet of the nearest property line of a Lot where an existing Community Residence is situate, measured by airline measurement, rebuttable presumptions shall arise that the proposed Community Residence's location will interfere with the normalization and community integration of the residents of such existing Community Residence, and that the location of the existing Community Residence will interfere with the normalization and community integration of the residents of the proposed Community Residence (which rebuttable presumptions shall require clear and convincing evidence to overcome); and

c. The primary function and use of the proposed Community Residence is residential, and any services are merely incidental to the residential use of the Lot.

(f) City Manager Determinations.

(1) The City Manager shall have the authority to consider and act on all applications for a reasonable accommodation, except for an application for a Community Residence in which more than six (6) persons will reside. Determinations of applications which can not be authorized by the City Manager under the provisions of this Subsection shall be made by the Special Magistrate under Subsection (g) of this Section.

(2) The City Manager may choose to refer an application for a reasonable accommodation which he or she is authorized to consider and Determine to the Special Magistrate under Subsection (g) of this Section, and when such referral is made, the Determination and judicial review of same shall be governed by Subsection (g) below, and the Administrative Appeal procedure set forth in Subsection (6) below shall not be available.

(3) For those applications considered and Determined by the City Manager, he or she shall issue a written Determination after considering the criteria specified in Subsection (e) above and may:

a. Grant the accommodation request, with or without conditions;

b. Grant a portion of the request and deny a portion of the request (which shall be an alternative reasonable accommodation), with or without conditions; or

c. Deny the request.

Any Determination under (3)(b) or (3)(c) above shall state the grounds therefor.

(4) All City Manager Determinations shall give notice of the applicant's right to an Administrative Appeal to the Special Magistrate under the provisions of Subsection (6) below. The City Manager's Determination shall be sent to the City Clerk who shall note the Determination's rendition date (the date the Clerk enters the Determination in the Public Record). The City Clerk shall then transmit the Determination to the Planning Department. The Determination shall then be sent by the Planning Department to the applicant by certified mail.

(5) The City Manager shall issue a written Determination within sixty (60) days of the date the complete application was received by the Planning Department. The issue date shall be the date the Determination is signed by the City Manager. Any Determination to approve shall specify is the

approval is for the entire application or in part, and with or without conditions. If the Determination is to deny the application, the City Manager shall provide the written Determination, which shall include specific, objective, evidence-based reasons for the denial and shall also identify any deficiencies or actions necessary for the application to be considered. If the final written Determination is not issued within sixty (60) days after receipt of the completed application, and the parties have not agreed to an extension of the time, the application is deemed approved, pursuant to Fla. Stat. § 397.487(15)(b)5.

(6) Administrative Appeal of City Manager Determinations, Judicial Review.

a. In the event an applicant disagrees with a City Manager Determination and desires to seek review thereof, the applicant shall file a Notice of Appeal with the City Clerk within thirty (30) days of the date the Determination is rendered. The Determination shall be rendered the date the City Clerk certifies that the Determination has been entered into the City's record. The Notice of Appeal shall describe in sufficient detail the grounds of the Appeal (i.e. the Determination's error and the relief sought).

b. The City Clerk shall forward to the Special Magistrate the record of the proceedings which shall consist of a copy of the application, a copy of the Planning Department report and recommendation, a copy of any Department comment requested by the Planning Department in its report and recommendation, as well as any information submitted by the applicant or by another Department in response to a request for additional information made by the City Manager prior to the Determination, the Determination, and the Notice of Appeal.

c. The Special Magistrate shall conduct a quasi-judicial hearing on the Administrative Appeal. All testimony shall be sworn and cross-examination shall be permitted. Witnesses who refuse to be cross-examined may have their testimony stricken from the proceedings. Formal Rules of evidence shall not apply, but fundamental rights of due process shall be observed and shall govern the proceedings. The Special Magistrate shall allow the applicant an opportunity to present evidence and argument on the matter and shall also allow the City and any intervenor to present evidence and argument. The Special Magistrate shall rule on all Motions to Intervene at the onset of the quasi-judicial hearing, or at an earlier hearing established for such purpose. The Special Magistrate may consider testimony from members of the public at the hearing. The Special Magistrate shall have the power to impose supplemental rules to govern the proceedings, to issue subpoenas for evidence, to take testimony, under oath, and issue rulings. In the Administrative Appeal, the applicant shall have the burden of persuasion by the preponderance of evidence (except as to rebutting the presumptions created by Section _____ of this Code, which require clear and convincing evidence), and shall have the burden of going forward with the evidence. The City may be represented by any City Department, or by an attorney. The applicant and any intervenor may be represented by an attorney if they desire.

d. The scope of review of the Special Magistrate shall be de novo, and the Special Magistrate may grant the application with or without conditions, grant an alternative accommodation with or without conditions, or deny the accommodation. The Special Magistrate shall consider the factors specified in Section _____ of this Code, the record, and the evidence presented at the hearing in making his or her decision. The decision of the Special Magistrate on an Administrative Appeal shall be evidenced by a Final Order, and the City Clerk shall send a copy of the Final Order to the applicant, and any intervenor as soon as possible after rendition by First Class Mail.

e. The City shall provide notice of the quasi-judicial hearing concerning the Administrative Appeal to the applicant and any intervenors by certified mail, at least fourteen (14) days prior to the quasi-judicial hearing. The City shall also provide notice of the quasi-judicial hearing, by First Class Mail, to all property owners within Three Hundred Feet (300') of the Lot for which the reasonable accommodation is requested, as their names and addresses appear on the most recent County real

property ad valorem tax roll, at least fourteen (14) prior to the quasi-judicial hearing. The notice of the quasi-judicial hearing shall be posted outside of City Hall for at least three (3) days prior to the quasi-judicial hearing. The Special Magistrate shall render a decision on the Administrative Appeal as soon as reasonably practicable, but in any event, no later than sixty (60) days after the Notice of Appeal is filed, unless the applicant and City agree to an extension of such time period. In the event the Special Magistrate fails to meet the required timetable, the Determination shall be deemed quashed, and shall be returned to the City Manager to make another, different Determination within a thirty (30) day time frame.

f. The City, the applicant, or an intervenor may file a Motion for a re-hearing of the matter within ten (10) days of the date the Magistrate Final Order is rendered. The Magistrate shall not be required to conduct a hearing to determine whether or not to grant the Motion. The filing of a Motion for a re-hearing shall not toll or affect the time periods within which the applicant or an intervenor is required to seek judicial review as provided in the next paragraph g. below.

g. In the event the applicant or an intervenor, or both, disagrees with a Special Magistrate Final Order on an Administrative Appeal, he or she may seek judicial review by filing a Petition for Writ of Certiorari in the Circuit Court of the 15th Judicial Circuit in and for Palm Beach County Florida within thirty (30) days of the Final Order's rendition. The Final Order shall be rendered the date the Code Enforcement Clerk certifies that the Final Order has been entered into the City's public record.

(g) Special Magistrate Determinations, and Proceedings to Modify or Terminate Determinations.

(1) Determinations of applications for a reasonable accommodation.

a. The Special Magistrate shall have jurisdiction to consider and Determine all applications for a reasonable accommodation which the City Manager is not authorized to Determine.

b. The Special Magistrate shall have jurisdiction to consider all applications for a reasonable accommodation which are referred to the Special Magistrate by the City Manager pursuant to Subsection (f)(2) above.

c. Within thirty (30) days of the date the Planning Department accepted the application, the Planning Department shall forward to the City Clerk a copy of the application, a copy of the Planning Department report and recommendation, a copy of any Department comment referenced by the Planning Department in its report and recommendation, as well as any information submitted by the applicant.

d. The City Clerk shall open a Case file, assign a Case Number to the Case file, and note the date the Case file was opened. In conjunction with the City Clerk, the City Clerk shall set the matter for a Special Magistrate hearing.

e. The caption of the Case shall be as follows:

SPECIAL MAGISTRATE
CITY OF WESTLAKE, FLORIDA
Case No. _____

In re:
Application for a Reasonable
Accommodation for Property
having a Street Address of:

/

f. The City shall provide notice of the quasi-judicial hearing concerning the Special Magistrate Determinations to the applicant, the property owner (who shall be treated as an applicant for purposes of this Section as identified by the most recent ad valorem tax roll), and any known

intervenors by certified mail, at least fourteen (14) days prior to the quasi-judicial hearing. The City shall also provide notice of the quasi-judicial hearing, by First Class Mail, to all property owners within Three Hundred Feet (300') of the Lot for which the reasonable accommodation is requested, as their names and addresses appear on the most recent County real property ad valorem tax roll, at least fourteen (14) days prior to the quasi-judicial hearing. The notice of the quasi-judicial hearing shall be posted outside of City Hall for at least three (3) days prior to the quasi-judicial hearing.

g. The Special Magistrate shall conduct a quasi-judicial hearing on the application. All testimony shall be sworn and cross-examination shall be permitted. Witnesses who refuse to be cross-examined may have their testimony stricken from the proceedings. Formal Rules of evidence shall not apply, but fundamental rights of due process shall be observed and shall govern the proceedings. The Special Magistrate shall allow the applicant an opportunity to present evidence and argument on the matter and shall also allow the City and any intervenor to present evidence and argument. The Special Magistrate shall rule on all Motions to Intervene at the onset of the quasi-judicial hearing, or at an earlier hearing established for such purpose. The Special Magistrate may consider testimony from members of the public at the hearing. The Special Magistrate shall have the power to impose supplemental rules to govern the proceedings, to conduct preliminary hearings, to issue subpoenas for evidence, to take testimony, under oath, and issue rulings. In these proceedings, the applicant shall have the burden of persuasion by the preponderance of evidence (except as to rebutting the presumption created by Section _____ of this Code which requires clear and convincing evidence), and shall have the burden of going forward with the evidence. The City may be represented in the proceedings by any City Department, or by an attorney. The applicant and any intervenors may be represented by an attorney if they desire.

h. The Special Magistrate may grant the application with or without conditions, grant an alternative accommodation with or without conditions, or deny the application. The Special Magistrate shall consider the factors specified in Section _____ of this Code, the Planning report and recommendations (which may include information from other Departments), the record, and the evidence presented at the hearing in making his or her Determination. The Determination of the Special Magistrate shall be evidenced by a Final Order, and the City Clerk shall send a copy of the Final Order to the applicant, and any intervenor as soon as possible after rendition by First Class Mail.

i. The Special Magistrate shall render a decision on the application as soon as reasonably practicable, but in any event, no later than sixty (60) days after the Case is opened by the City Clerk, unless the applicant, City, or an intervenor demonstrates that undue prejudice would result, in which case the Special Magistrate may grant a reasonable extension to the sixty (60) day timeframe, provided such extension does not to exceed an additional thirty (30) days. In the event the Special Magistrate fails to meet the required timetable within which to render a Determination, the application shall be deemed granted.

j. The City, the applicant, or an intervenor may file a Motion for a re-hearing of the matter within ten (10) days of the date the Magistrate Final Order is rendered. The Magistrate shall not be required to conduct a hearing to determine whether or not to grant the Motion. The filing of a Motion for a re-hearing shall not toll or affect the time periods within which the applicant or an intervenor is required to seek judicial review as provided in the next paragraph k.

k. In the event the applicant, or an intervenor, or both, disagrees with a Special Magistrate Determination, he or she may seek judicial review by filing a Petition for Writ of Certiorari in the Circuit Court of the 15th Judicial Circuit in and for Palm Beach County Florida within thirty (30) days of the Final Order's rendition. The Final Order shall be rendered the date the Code Enforcement Clerk certifies that the Final Order has been entered into the City's public record.

(2) Special Magistrate proceedings to modify or terminate a Determination.

a. The Special Magistrate shall have jurisdiction to consider a modification or termination of a Determination (and the effective date thereof), when the City Manager refers such a matter to the City Clerk pursuant to Subsection (i)(5) below.

b. Upon receiving a referral, the City Clerk shall open a Case file, assign a Case Number to the Case file, and note the date the Case file was opened. The City Clerk shall also advise any Department which has been requested by the City Manager to provide a report and recommendation of the date the case file was opened.

c. The caption of the Case shall be as follows:

SPECIAL MAGISTRATE

CITY OF WESTLAKE

Case No. _____

In re:

Modification or Termination of a
Reasonable Accommodation for Property
having a Street Address of:

/

d. Within thirty (30) days of the date the case was opened, any Department which has been so directed by the City Manager shall forward to the City Clerk a copy of its report and recommendation.

e. The City Clerk, the City Clerk shall set the matter for a Special Magistrate hearing.

f. The City shall post a notice of the hearing on the Lot for which the reasonable accommodation at issue was granted (the "subject Lot"), at least ten (10) days prior to the quasi-judicial hearing. The City shall also provide notice of the Special Magistrate quasi-judicial hearing concerning the case to the applicant of the reasonable accommodation at issue (as their name and address appeared on the application), and any known intervenors by certified mail, at least fourteen (14) days prior to the quasi-judicial hearing. The City shall also provide notice of the quasi-judicial hearing, by First Class Mail, to all property owners within Three Hundred Feet (300') of the subject Lot, as their names and addresses appear on the most recent Palm Beach County real property ad valorem tax roll, at least fourteen (14) days prior to the quasi-judicial hearing. The notice of the quasi-judicial hearing shall also be posted outside of City Hall for at least three (3) days prior to the quasi-judicial hearing.

g. The Special Magistrate shall conduct a quasi-judicial hearing on the matter. All testimony shall be sworn and cross-examination shall be permitted. Witnesses who refuse to be cross-examined may have their testimony stricken from the proceedings. Formal Rules of evidence shall not apply, but fundamental rights of due process shall be observed and shall govern the proceedings. The Special Magistrate shall allow the applicant an opportunity to present evidence and argument on the matter and shall also allow the City and any intervenor to present evidence and argument. The Special Magistrate shall rule on all Motions to Intervene at the onset of the quasi-judicial hearing, or at an earlier hearing established for such purpose. The Special Magistrate may consider testimony from members of the public at the hearing. The Special Magistrate shall have the power to impose supplemental rules to govern the proceedings, to conduct preliminary hearings, to issue subpoenas for evidence, to take testimony, under oath, and issue rulings. In these proceedings, the City shall have the burden of persuasion by the preponderance of evidence, and shall have the burden of going forward with the evidence. The City may be represented in the proceedings by any City Department, or by an attorney. The applicant and any intervenors may be represented by an attorney if they desire.

h. The Special Magistrate may modify or terminate the Determination. The Special Magistrate shall consider the report and recommendations of any Department, the record, the evidence presented at the hearing, and the criteria set forth in in Section _____ of this Code. The decision of the Special Magistrate shall be evidenced by a Final Order, and the City Clerk shall send a copy of the Final Order to the applicant, and any intervenor as soon as possible after rendition by First Class Mail.

i. The Special Magistrate shall enter a Final Order on the matter as soon as reasonably practicable, but in any event, no later than sixty (60) days after the Case is opened by the Clerk of the

Magistrate, unless the applicant, City, or an intervenor demonstrates that undue prejudice would result, in which case the Special Magistrate may grant a reasonable extension to the sixty (60) day timeframe, provided such extension does not to exceed an additional thirty (30) days. In the event the Special Magistrate fails to meet the required timetable, the Determination which is the subject of the proceedings shall be deemed to have not been modified or terminated.

j. The City, the applicant, or an intervenor may file a Motion for a re-hearing of the matter within ten (10) days of the date the Magistrate Final Order is rendered. The Magistrate shall not be required to conduct a hearing to determine whether or not to grant the Motion. The filing of a Motion for a re-hearing shall not toll or otherwise affect the time period within which the applicant or an intervenor is required seek judicial review as provided in the next paragraph k.

k. In the event the applicant, or an intervenor, or both, disagrees with a Special Magistrate Final Order, he or she may seek judicial review by filing a Petition for Writ of Certiorari in the Circuit Court of the 15th Judicial Circuit in and for Palm Beach County Florida within thirty (30) days of the Final Order's rendition. The Final Order shall be entered the date it is signed by the Special Magistrate, and it shall be deemed rendered the date the Code Enforcement Clerk certifies that the Final Order has been entered into the City's public record.

(h) Expiration Recertification of Determination.

(1) For purposes of establishing the initial time period within which a Determination shall remain viable before it expires unless it is recertified, the following schedule is established:

a. For applications filed and accepted by the Planning Department on or between July 15 of a calendar year and January 14 of the next succeeding calendar year, any granted Determination (for an accommodation or alternative accommodation) shall expire on the September 30 which next succeeds the January 14 date, unless such Determination is recertified as provided in Subsection (2).

b. For applications filed and accepted by the Planning Department on or between January 15 of a calendar year and July 14 the same calendar year, any granted Determination (for an accommodation or an alternate accommodation) shall expire on September 30 of the next ensuing calendar year, unless such Determination is recertified as provided in Subsection (2).

(2) For a viable Determination to be recertified, a new application for a reasonable accommodation shall need to be accepted by the Planning Department on or between April 30 and July 1 of the calendar year in which the Determination shall expire, and a new Determination issued by September 1 of such calendar year. In the event this occurs, the Determination shall be considered "recertified" and shall be valid until September 30 of the next ensuing calendar year, at which time it shall expire, unless the Determination receives another recertification pursuant to the timetable set forth in this Subsection (2). There shall be no limit on the number of times a Determination can be recertified.

(3) Failure to recertify a Determination shall result in the expiration of the approved reasonable accommodation.

(4) Recertification requests shall follow the same requirements as the initial request for a reasonable accommodation as set forth in this Section.

(i) Violations, Penalties and Modification or Termination.

(1) Any property owner, operator, or other person who may be an applicant under this Section who falsifies or conceals material information in such applicant's application for reasonable accommodation or any recertification has committed a violation of this Code and is subject to the penalties set forth in this Section.

(2) Any property owner, operator, or other person who may be an applicant under this Section who causes, permits, facilitates, aids, or abets any violation of any provision of the granted reasonable accommodation or granted alternative reasonable accommodation has committed a violation of this Code and is subject to the penalties set forth in this Section.

(3) Any property owner, operator, or other person who may be an applicant under this Section who fails to perform any obligation, act or duty as contemplated in this Section or as set forth in the

granted reasonable accommodation or granted alternative reasonable accommodation has committed a violation of this Code and is subject to the penalties set forth in this Section.

(4) The penalties and prosecution methods for a violation of the Code as specified in this Section may be by any of the following:

a. The City may prosecute violations under Chapter _____, and subject the violator to the penalties prescribed thereunder.

b. The City may prosecute a violation of this Section under _____:

1. For the first Civil Citation, the civil penalty shall be One Hundred Dollars (\$100). If the violator chooses to contest the Civil Citation, the maximum penalty shall be One Hundred Fifty Dollars (\$150) per Civil Citation.

2. For a repeat violation, the civil penalty shall be Two Hundred Dollars (\$200). If the violator chooses to contest the Civil Citation, the maximum penalty shall be Two Hundred Fifty Dollars (\$250) per Civil Citation.

c. The City may prosecute a violation of this Code under Section _____, and if desired, Section 1-14 of this Code.

(5) False or failure to disclose material information.

a. If at any time during the period for which the Determination is effective it is determined by the City Manager that: 1. a material statement contained in the application, or material information provided by the applicant, was false when provided, or 2. the applicant omitted material information, or failed to disclose material information, the omission of which would cause a reasonable person to conclude that the application was misleading, or 3. that applicant has on more than two (2) occasions failed to perform any obligation, act or duty as contemplated in this Section or as set forth in a granted Determination, or 4. some or all of 1.—3., the Determination shall be subject to modification or termination. The City Manager may refer all such matters to the City Clerk for scheduling of a hearing pursuant to procedures of Subsection (g)(2).

b. If such a referral is made, the City Manager may determine whether any Department should be directed to furnish a report and recommendation to the Special Magistrate as provided by Subsection (d)(2) above, and if such a direction is made, he or she shall advise the City Clerk.

c. In the event the Determination is modified by the Special Magistrate, the modified Determination shall be considered the "viable Determination" for purposes of recertification under Subsection (h)(2) of this Section, regardless of any intervening applications for recertification and any approvals thereof.

d. In the event the Determination is terminated by the Special Magistrate, a new application for the same Determination shall not be accepted by the City for a period of one (1) year, and the termination shall terminate all intervening applications for re-certification of such Determination and any approvals thereof.

(6) In addition to the remedies specified in this Section to address violations, the City may exercise and seek any and all remedies provided by law.

(j) Other General and Implementing Provisions.

(1) The City shall display a notice on the City's website (and shall maintain copies of the notice available for review in the Planning Department, and the City Clerk's Office), advising the public that disabled individuals (and qualifying persons or entities) may request reasonable accommodation as provided herein. The City will also display a notice on its website.

(2) The City shall provide such clerical assistance and clerical accommodation as may be required pursuant to FHA and ADA in connection with a disabled person's request for reasonable accommodation, so as to ensure the reasonable accommodation process is accessible to persons experiencing disabilities.

(3) All Determinations granting a reasonable accommodation or alternative accommodation prior to (the effective date of this Ordinance) shall expire on September 30, 2021.

(4) All owners of residential real property shall have 90 calendar days subsequent to (the

effective date of this Ordinance) to apply for a reasonable accommodation where:

a. The use of such property on (the effective date of this Ordinance) is in violation of the City Code provisions for "Family" use (the definition of which in Section 27-1 of this Code limits to not more than three (3) individuals who are not interrelated from occupying the whole or part of: 1. a single-family home, or 2. a single-family dwelling, or 3. a dwelling unit in a building containing multi-family dwelling units), and.

b. Such use would not be in such violation if a reasonable accommodation was granted pursuant to this Section.

In the event an application is not timely filed as required by this Subsection (4), or thereafter a Determination granting an accommodation or an alternate accommodation is not issued in accordance with the provisions of this Section, the violation shall be subject to the provisions of Section _____ above.

SECTION 3. Codification. It is the intention of the City Council of the City of Westlake that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Westlake, Florida, and that the Sections of this Ordinance may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section," "Article" or such other word or phrase in order to accomplish such intention.

SECTION 4. Conflicts. All ordinances or parts of ordinances, resolutions or parts of resolutions which are in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 5. Severability. Should the provisions of this ordinance be declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall remain notwithstanding the invalidity of any part.

SECTION 6. Effective Date. This ordinance shall be effective upon adoption on second reading.

PASSED this__ day of ____, 2026, on first reading.

PUBLISHED on this __ day of ____, 2026 in the Sun Sentinel

PASSED AND ADOPTED this __ day of ____, 2026, on second reading.

City of Westlake
JohnPaul O'Connor, Mayor

Odet Izquierdo, Acting City Clerk

APPROVED AS TO LEGAL FORM

OFFICE OF THE CITY ATTORNEY

