

**ORDINANCE NO. 06-2016**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AMENDING CHAPTER 78, ARTICLE I, SECTION 78-6 OF THE LAKE PARK TOWN CODE, ENTITLED "REASONABLE ACCOMMODATION PROCEDURES" IN ITS ENTIRETY AND REPLACING IT WITH NEW REASONABLE ACCOMMODATION REGULATIONS TO PROTECT PERSONS WITH DISABILITIES DUE TO SUBSTANCE ABUSE AND THE GENERAL PUBLIC; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Article VIII, §2(b) of the Constitution of the State of Florida and Chapter 166, Florida Statutes, the Town Commission of the Town of Lake Park, Florida (the "Town") has the home rule authority to establish such regulations as it deems necessary to advance and protect the health, safety, morals and general welfare of the Town; and

**WHEREAS**, pursuant to § 397.487(1), Fla. Stat., the Florida Legislature has made the legislative finding that a person suffering from addiction has a higher success rate of achieving long-lasting sobriety when given the opportunity to build a stronger foundation by living in a recovery residence after completing treatment from a licensed service provider; and

**WHEREAS**, pursuant to § 397.487(1), Fla. Stat. the Florida Legislature has made the legislative finding that the state, its subdivisions, and municipal corporations have a legitimate state interest in protecting persons suffering from addiction, who represent a vulnerable consumer population in need of housing; and

**WHEREAS**, pursuant to § 397.487(1), Fla. Stat., the Florida Legislature has made the legislative finding that persons who live in a recovery residence require protection; and

**WHEREAS**, the Florida Legislature has determined that persons suffering from addiction who live in recovery residences can be better protected by the establishment of a voluntary certification program for recovery residences; and

**WHEREAS**, the Florida Legislature has determined that persons suffering from addiction would be better protected by the establishment of a program for the certification of recovery residence administrators to ensure that these administrators adhere to certain core competencies, including (1) A code of ethics and disciplinary process; (2) Biennial continuing education requirements; (3) Annual certification renewal and requirements; and

**WHEREAS**, the Florida Legislature has determined that persons suffering from addiction who live in recovery residences can be better protected by encouraging recovery residences to employ a recovery residence administrator who has earned and who will maintain certification from a credentialing entity approved by the Department of Children and Families; and

**WHEREAS**, the Town Commission finds that the voluntary certification of recovery residences, the management of the recovery residence and the supervision of the residents therein by a certified recovery residence administrator is necessary and appropriate to further the health, safety and general welfare of the residents of a recovery residence and the general public; and

**WHEREAS**, the Town Commission, after due notice and public hearings, deems it to be in the interest of the public health, safety, and general welfare to amend Chapter 78, Article 1, Section 78-6 of the Town Code, as more specifically provided herein.

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

**Section 1.** The foregoing recitals are adopted herein as true and correct and shall constitute the legislative findings of the Town Commission.

**Section 2.** Chapter 78, Article I, Section 78-6 is hereby amended and replaced in its entirety as follows:

~~Sec. 78-6. Reasonable accommodation procedures.~~

- ~~(1) This section implements the policy of the town for processing requests for reasonable accommodation from the town's ordinances, rules, policies, practices, 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. 12131 et. seq.) ("ADA"). For purposes of this section, a "disabled individual" or a "disabled person" means an individual that qualifies as disabled and/or handicapped under the FHA and/or ADA. Any person who is disabled (or a qualifying entity) may apply for a reasonable accommodation with respect to the town's land use or applicable zoning district's laws, rules, land use policies, or other relevant practices and/or procedures as provided by the FHA and the ADA by submitting an application for a reasonable accommodation pursuant to the procedures set forth in this section. For purposes of this section, a qualifying entity shall mean, a licensed service provider in the State of Florida as defined by F.S. § 397.311(18). All qualifying entities shall submit as part of an application for a reasonable accommodation, proof of the licensable service component the qualifying entity holds pursuant to F.S. ch. 397. Applications for a reasonable accommodation whether individually, or, if through a qualifying entity, must submit proof that he or she requires a reasonable accommodation because he or she is disabled and/or handicapped under the FHA and/or ADA, including the persons legal name and documentation demonstrating the nature of the handicap or disability.~~
- ~~(2) A request by a disabled person or individual ("applicant") for a reasonable accommodation under this section shall be made in writing by completing a form which is available in the town's community development department ("department"). The form shall contain questions and requests for information, which are necessary for the town to process the reasonable accommodation request.~~
- ~~(3) If the information required to be provided by the applicant to the town, includes medical information and/or records, including records relating to the medical~~

~~condition, diagnosis or medical history of the applicant, the applicant at the time of the submission of the medical information, may request that the town treat the medical information as confidential information of the applicant. In such case, the town shall endeavor to keep the applicant's medical information confidential to the extent permitted by law. The town shall thereafter use its best efforts to provide written notice to the applicant and/or the applicant's authorized agent, attorney or representative, of any request received by the town for disclosure of the medical information or documentation which the applicant has previously requested be treated as confidential by the town. The town will cooperate with the applicant to the extent allowed by law, in actions initiated by persons or entities that challenge or oppose the town's nondisclosure of medical information or records of the applicant. However, the town shall have no obligation to defend against any action seeking to compel the production of public records or to incur any legal or other expenses in connection therewith, and may produce the records to the extent the town determines the records are not exempt from the Public Records Act, or to comply with any judicial or administrative order without prior notice to the applicant.~~

~~The property owner or tenant of property which is the subject of an application for a reasonable accommodation, or, if applicable, a qualifying entity which is an owner or tenant of the property which is the subject of a reasonable accommodation application, shall submit the leases of each and every tenant the property who is requesting a reasonable accommodation. If the tenant is a qualifying entity as defined herein, then the qualifying entity shall submit the leases or subleases of any individual who is requesting a reasonable accommodation. It shall be the joint and several responsibility of the property owner, tenant, and/or qualifying entity to submit any leases or subleases application for persons at the property, at any time which is the subject of a reasonable accommodation request.~~

~~(5) The special magistrate may: (1) grant the reasonable accommodation request in full (2) grant a portion of the a reasonable accommodation request and deny a portion of the reasonable accommodation request and may also impose conditions upon the portion of the reasonable accommodation request that was granted; or (3) deny the reasonable accommodation request. Any denial of a reasonable accommodation request shall be in writing, and shall state the grounds for the denial. All decisions of the special magistrate on a request for reasonable accommodation shall be in writing and shall give the applicant notice of the applicant's right to appeal. The written decision of the special magistrate shall be sent to the applicant (i.e., the disabled individual or his/her authorized agent, attorney, or representative) by certified mail, return receipt requested, at the address specified for notice by the applicant on the application form.~~

~~(56) In determining whether a reasonable accommodation request should be granted or denied, the applicant, or, if applicable, the qualifying entity must establish that the applicant is protected under the provisions of the FHA and/or ADA by demonstrating that the applicant is handicapped or disabled, as defined in the FHA and/or ADA. Although the definition of disability is subject to judicial interpretation,~~

~~for purposes of this section, the disabled individual who is the subject of the request for a reasonable accommodation must show: (i) a physical or mental impairment which substantially limits one or more major life activities; (ii) a record of having such impairment; and (iii) that the disabled individual is regarded as having such impairment. After satisfying the foregoing three criteria, the applicant must demonstrate that the proposed accommodations being sought are reasonable and necessary to afford him/her an equal opportunity to use and enjoy housing.~~

- ~~(6) If denied an applicant may appeal, by writ of certiorari the special magistrate's written decision on a reasonable accommodation request within 30 days after the date on which the written decision is rendered.~~
- ~~(7) No fee shall be imposed by the department in connection with a request for reasonable accommodation under this section, or for an appeal of a decision of the special magistrate to the town commission. The town shall have no liability for or legal obligation to pay an applicant's attorney's fees or costs, including attorney's fees and costs incurred in any appeal at any appellate level.~~
- ~~(8) During the time when an application for reasonable accommodation is pending, the town shall not enforce the zoning ordinance, rules, policies, and procedures which are the subject of the request application for a reasonable accommodation against the applicant.~~
- ~~(9) The following general provisions shall be applicable:
  - ~~(a) The town shall display a notice in the town's public notice bulletin board (and shall maintain copies available for review in the department, the building/permitting division, and the town clerk's office), advising the public that disabled individuals (and qualifying entities, if applicable) may request a reasonable accommodation as provided in this section.~~
  - ~~(b) A disabled individual, or if applicable a qualifying entity who has applied for a reasonable accommodation or may be represented at all stages of the reasonable accommodation process by a person designated by the disabled individual as their authorized agent, attorney, or representative. If an attorney, authorized agent, or other representative is representing an individual, or, if applicable, a qualifying entity, a written authorization designating the attorney, authorized agent, or representative shall be submitted together with the application.~~
  - ~~(c) The town shall provide assistance and accommodation as is required pursuant to FHA and ADA in connection with a disabled person's request for reasonable accommodation, including without limitation, assistance with interpreting the reasonable accommodation application form and responding to the questions contained therein, assistance with completing the form, assistance with filing an appeal and assistance in appearing at hearings to ensure the process is accessible.~~~~

Sec. 78-6. Applications and regulations for reasonable accommodation for residents of Recovery Residences

(1) Definitions

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

**Certified recovery residence administrator** means a recovery residence administrator who holds a valid certificate of compliance.

**Certified recovery residence** means a recovery residence that holds a valid certificate of compliance and is actively managed by a certified recovery residence administrator.

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

**Housing provider** means a person or entity which has been certified as a recovery residence, or which is in the process of obtaining certification as a recovery residence.

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

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

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

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

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

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

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

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

(2) **Application:** This section implements the policy of the Town for processing reasonable accommodation applications for persons with disabilities and who are in recovery from substance abuse. Any applicant whether a disabled individual, or a qualifying entity may apply for a reasonable accommodation with respect to the Town's land use or applicable zoning laws, codes, rules, practices and/or procedures by submitting an application for a reasonable accommodation pursuant this section.

(a) **All qualifying entities shall submit as part of an application for a reasonable accommodation, proof of the licensable service component the qualifying entity holds pursuant to F.S. ch. 397.**

(b) **Housing providers for disabled individuals shall submit such information as the Town may deem sufficient to demonstrate that the entity is a certified recovery residence or is in the process of becoming certified to operate a recovery residence for disabled individuals.**

(c) **Applicants making application for a reasonable accommodation whether individually, through a qualifying entity or as a housing provider, shall submit proof that each individual is seeking a reasonable accommodation is due to the individual's handicap or disability.**

(d) **Applicants making applications to operate a recovery residence shall identify the recovery residence administrator who is responsible for the overall management and the supervision of residents and any staff. Applicant shall submit such information as is necessary to document that the recovery residence administrator is certified or has applied for certification as a recovery residence administrator.**

(e) **An applicant for a reasonable accommodation under this section shall submit an application using a form which is available in the Town's community development department ("department"). The information on the form must be**

complete as the information solicited is necessary for the Town to process the reasonable accommodation application.

(f) The Town shall display a notice in the Town's public notice bulletin board (and shall maintain copies available for review in the department, the building/permitting division, and the Town Clerk's Office), advising the public that an application for a reasonable accommodation as provided in this section has been submitted to the department.

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

(h) No application fee shall be imposed by the department in connection with an application for a reasonable accommodation.

- (3) An individual, qualifying entity, or housing provider who is the tenant of a property owner, shall submit the leases or lease between the property owner and the tenant or tenants requesting a reasonable accommodation. It shall be the joint and several responsibility of the property owner or tenant, to submit any leases or subleases pertaining to the residence which is the subject of a reasonable accommodation application for a recovery residence.
- (4) Applicants for a reasonable accommodation shall have the burden of establishing that the individuals on whose behalf the application has been submitted are protected under the provisions of the FHA and/or ADA. The applicant shall also demonstrate that the accommodation being sought for all of the individuals who will occupy the recovery residence are reasonable and necessary.
- (5) All applications for a reasonable accommodation shall be considered by the Town's Special Magistrate pursuant to the procedures of § 2-2 of the Town Code. The Town shall be responsible for mailing via certified mail a notice containing the date and time of the Special Magistrate's hearing to consider the application. The Special Magistrate may: (1) grant the reasonable accommodation application as requested in the application; (2) grant a portion of the application determined by the Special Magistrate to be a reasonable accommodation given the circumstances and the nature of the request (3) grant the application with conditions to effectuate a reasonable accommodation; or (4) deny the reasonable accommodation requested. All decisions of the Special Magistrate shall be in writing. The written decision of the Special Magistrate shall constitute a Final



Order and shall be sent to the applicant by certified mail, return receipt requested, at the address specified by the applicant on the application form.

If denied the applicant may appeal the Final Order by writ of certiorari within 30 days of the date it is rendered.

**Section 3. Codification.**

The provisions of this Ordinance shall become and be made part of the Code of Laws and Ordinances of the Town of Lake Park.

**Section 4. Severability.**

If any section, phrase, sentence 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 of the Town of Lake Park, Florida, which are in conflict herewith are hereby repealed to the extent of such conflict.

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

Upon First Reading this 7 day of September, 2016, the foregoing Ordinance was offered by Commissioner O'Rourke who moved its approval. The motion was seconded by Commissioner Flaherty and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR JAMES DUBOIS	<u>/</u>	_____
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u>Absent</u>	_____
COMMISSIONER ERIN FLAHERTY	<u>/</u>	_____
COMMISSIONER ANNE LYNCH	<u>/</u>	_____
COMMISSIONER MICHAEL O'ROURKE	<u>/</u>	_____

**PUBLISHED IN THE PALM BEACH POST THIS 11 DAY OF September, 2016**

Upon Second Reading this 21 day of September, 2016, the foregoing Ordinance, was offered by Commissioner O'Rourke, who moved its adoption. The motion was seconded by Commissioner Flaherty and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR JAMES DUBOIS	<u>/</u>	_____
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u>/</u>	_____
COMMISSIONER ERIN FLAHERTY	<u>/</u>	_____
COMMISSIONER ANNE LYNCH	<u>/</u>	_____
COMMISSIONER MICHAEL O'ROURKE	<u>/</u>	_____

The Mayor thereupon declared **Ordinance No.** 06-2016 duly passed and adopted this 21 day of September, 2016.

TOWN OF LAKE PARK, FLORIDA

BY: James DuBois  
Mayor, James DuBois

ATTEST:

Vivian Mendez  
Town Clerk, Vivian Mendez  
(Town Seal)

TOWN OF LAKE PARK  
FLORIDA

Approved as to form and legal sufficiency:

Thomas J. Baird  
Town Attorney, Thomas J. Baird

# The Palm Beach Post

Palm Beach Daily News



## RECEIPT

### LEGAL NOTICE OF PROPOSED ORDINANCE TOWN OF LAKE PARK

Please take notice that on Wednesday, September 21, 2016, 2016 at 6:30 p.m. or soon thereafter the Town Commission, of the Town of Lake Park, Florida in a regular session to be held in the Commission Chambers, Town Hall, 535 Park Avenue, Lake Park, Florida will consider the following Ordinances on second reading and proposed adoption thereof:

#### ORDINANCE NO. 06-2016

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AMENDING CHAPTER 78, ARTICLE I, SECTION 78-6 OF THE LAKE PARK TOWN CODE, ENTITLED "REASONABLE ACCOMMODATION PROCEDURES" IN ITS ENTIRETY AND REPLACING IT WITH NEW REASONABLE ACCOMMODATION REGULATIONS TO PROTECT PERSONS WITH DISABILITIES DUE TO SUBSTANCE ABUSE AND THE GENERAL PUBLIC; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

#### ORDINANCE NO. 07-2016

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 2, ARTICLE V, SECTION 2-24 PERTAINING TO THE RECORDING AND INVENTORY OF CERTAIN PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

#### ORDINANCE NO. 08-2016

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK FLORIDA, AMENDING CHAPTER 18, ARTICLE IV, SECTION 18-123 OF THE TOWN CODE PERTAINING TO THE CRITERIA FOR APPROVAL OF SPECIAL EVENT PERMITS; PROVIDING FOR THE AMENDMENT OF SECTION 18-123(7) RELATED TO REQUIRING LIQUOR LEGAL LIABILITY INSURANCE; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

If a person decides to appeal any decision made by the Town Commission with respect to any hearing, they will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. For additional information, please contact Vivian Mendez, Town Clerk at 561-881-3311.

Vivian Mendez, CMC, Town Clerk

PUB: The Palm Beach Post  
9-11/2016 #649228