

ORDINANCE NO. 04-2010

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AMENDING SECTION 78-6(1) OF THE LAKE PARK TOWN CODE ENTITLED "REASONABLE ACCOMMODATION PROCEDURES"; PROVIDING FOR AN AMENDMENT TO THE DEFINITION OF THE TERM "QUALIFYING ENTITY"; PROVIDING FOR THE REQUIREMENT THAT THOSE SEEKING A REASONABLE ACCOMMODATION SUBMIT THEIR LEGAL NAMES AND PROOF OF THEIR DISABILITY OR HANDICAP; PROVIDING FOR THE AMENDMENT OF SECTION 78-6(1) TO REQUIRE QUALIFYING ENTITIES TO SUBMIT PROOF THAT THEY ARE LICENSED SERVICE PROVIDERS AS DEFINED IN SECTION 397.311(18), FLORIDA STATUTES; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; 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, the Town Commission has adopted provisions which have been codified in Chapter 78 of the Town Code pertaining to land use and zoning within the Town, including procedures to be followed by those seeking a reasonable accommodation from these provisions: and

WHEREAS, the Town Commission has previously adopted Ordinances Nos. 18-2007 and 16-09 which have been codified in Town Code Section 78-6 establishing reasonable accommodation procedures in the event a disabled individual(s) or a qualifying entity requests a reasonable accommodation from the Town's laws; and

WHEREAS, the Town Commission has determined that it is in the best interests of the

Town's residents to further clarify the meaning of the term "qualifying entity" to explicitly state that this term shall have the same meaning as the term "licensed service provider" as that term is defined by Section 397.311 (18), Florida Statutes ; and

WHEREAS, the Town Commission has determined that subsection (1) of Section 78-6, should be amended to clarify that reasonable accommodation applicants must submit their legal names and proof of the specific nature of their handicap or disability; and

WHEREAS, the Town Commission has determined that it is necessary to amend subsection (1) of Section 78-6, to require that any Qualifying Entity submitting an application on behalf of one or more handicapped or disabled individuals must submit proof of the licensable service component held by the Qualifying Entity pursuant to Section 397.311 (18), Florida Statutes ; 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 I, Section 78-6 (1) of the Town's 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 (1) is hereby amended to read 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. Section 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 ~~may shall mean , for some applications, an a entity~~ licensed by the Department of Children and Families as a Level 1-5 treatment service provider in the State of Florida as defined by Section 397.311 (18), Florida Statutes. 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 Chapter 397, Florida Statutes. Applicants for a reasonable accommodation ~~either whether~~ individually, or, if applicable, through a qualifying entity, must submit ~~to the special magistrate~~ 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.

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 immediately upon adoption.

Upon First Reading this 7 day of April, 2010, the foregoing Ordinance, was offered by Commissioner Rumsey, who moved its approval. The motion was seconded by Vice-Mayor Osterman and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR DESCA DUBOIS	<u>/</u>	_____
VICE MAYOR PATRICIA OSTERMAN	<u>/</u>	_____
COMMISSIONER STEVEN HOCKMAN	<u>/</u>	_____
COMMISSIONER JEANINE LONGTIN	<u>/</u>	_____
COMMISSIONER KENDALL RUMSEY	<u>/</u>	_____

PUBLISHED IN THE PALM BEACH POST THIS 11 DAY OF April, 2010

Upon Second Reading this 21 day of April, 2010, the foregoing Ordinance, was offered by Commissioner Rumsey, who moved its adoption. The motion was seconded by Vice-Mayor Osterman and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR DESCA DUBOIS	<u>/</u>	_____
VICE MAYOR PATRICIA OSTERMAN	<u>/</u>	_____
COMMISSIONER STEVEN HOCKMAN	<u>/</u>	_____
COMMISSIONER JEANINE LONGTIN	<u>/</u>	_____
COMMISSIONER KENDALL RUMSEY	<u>/</u>	_____

The Mayor thereupon declared **Ordinance No.** 04-2010 duly passed and adopted this 21 day of April, 2010.

TOWN OF LAKE PARK, FLORIDA

BY: Desca DuBois
Mayor, Desca DuBois

ATTEST:

Vivian M. Lemley
Town Clerk, Vivian M. Lemley

TOWN OF LAKE PARK
SEAL

FLORIDA

Approved as to form and legal sufficiency:

Thomas J. Baird
Town Attorney, Thomas J. Baird