

ORDINANCE NO. 37-25

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH CODE OF ORDINANCES CHAPTER 2, “ADMINISTRATIVE PROVISIONS,” ARTICLE 2.4, “DEVELOPMENT APPLICATION REQUIREMENTS,” SECTION 2.4.11, “RELIEF,” SUBSECTION (E), “REQUESTS FOR ACCOMMODATION,” TO REQUIRE A REASONABLE ACCOMMODATION REQUEST TO BE SUBMITTED IN WRITING, MODIFY THE AMOUNT OF TIME TO REQUEST ADDITIONAL INFORMATION AND TO MAKE A FINAL DETERMINATION, REQUIRE ANY DENIAL OF A REASONABLE ACCOMMODATION REQUEST TO STATE OBJECTIVE, EVIDENCE-BASED REASONS FOR THE DENIAL, AND THAT THE APPLICATION IS DEEMED APPROVED IF THE CITY DOES NOT MAKE A FINAL DETERMINATION WITHIN 60 DAYS, TO COMPORT WITH RECENT CHANGES TO STATE LAW; PROVIDING A CONFLICTS CLAUSE; A SEVERABILITY CLAUSE; AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

WHEREAS, the Land Development Regulations (“LDR”) of the City of Delray Beach (“City”) Code of Ordinances provide authority for the City Commission to amend, change, supplement, or repeal the LDR from time to time; and

WHEREAS, in accordance with Senate Bill 954 (2025) pertaining to “Certified Recovery Residences,” the City must amend the LDR to update its procedures for handling and processing requests for reasonable accommodations before the statute’s effective date of January 1, 2026; and

WHEREAS, pursuant to Florida Statutes 163.3174(4)(c), the Planning and Zoning Board for the City of Delray Beach, sitting as the Local Planning Agency, reviewed the proposed text amendment to the Land Development Regulations at a public hearing on November 17, 2025, and voted __ to __ to recommend that the proposed text amendment be approved, finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations; and

WHEREAS, the City Commission has considered Ordinance No. XX-25 and the respective findings as set forth in the Comprehensive Plan and Land Development Regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The recitations set forth above are incorporated herein.

Section 2. The City Commission of the City of Delray Beach finds that this Ordinance is consistent with the Comprehensive Plan, meets the criteria set forth in the Land Development Regulations, and is in the best interests of the City.

Section 3. Chapter 2, “Administrative Provisions,” Article 2.4, “Development Application Requirements,” Section 2.4.11, “Relief,” Subsection (E), “Requests for Accommodation,” of the Land Development Regulations of the City of Delray Beach, Florida, is hereby amended as follows:

Sec. 2.4.11. – Relief.

(A) – (D) (These subsections to remain)

(E) ***Requests for accommodation.***

- (1) ***Purpose.*** The purpose of this section is to implement a procedure for processing requests for reasonable accommodation to the City's Code of Ordinances, Land Development Regulations, 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 Amendments Act (42 U.S.C. Section 12131, et. seq.) ("ADAA"). For purposes of this section, a "disabled" person is an individual that qualifies as disabled and/or handicapped under the FHA and/or ADA. Any person who is disabled (or qualifying entities) may request a reasonable accommodation with respect to the City's Land Development Regulations, Code of Ordinances, rules, policies, practices and/or procedures as provided by the FHA and the ADA pursuant to the procedures set out in this section.
- (2) ***Notice to the public of availability of accommodation.*** The City shall display a notice in the City's public notice bulletin board (and shall maintain copies available for review in the Development Services Department, the Building Department, and the City Clerk's Office), advising the public that disabled individuals (and qualifying entities) may request a reasonable accommodation as provided herein.
- (3) ***Application.*** A request by an Applicant for reasonable accommodation under this section shall be ~~either oral or written. A written request may be~~ submitted by completion of a reasonable accommodation request form, which is maintained by (and shall be submitted to) the Development Services Department. The reasonable accommodation request form shall be date-stamped when received. The reasonable accommodation form shall contain such questions and requests for information as are necessary for processing the reasonable accommodation request. The reasonable accommodation request form shall be substantially in the form set forth in this Subsection.
 - (a) ***Confidential information.*** Should the information provided by the disabled individual to the City include medical information or records, including records indicating the medical condition, diagnosis or medical history of the disabled individual, such individual may, at the time of submitting such medical information, 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/or his or her representative, of any request received by the City for disclosure of the medical

information or documentation which the disabled individual has previously requested be treated as confidential by the City. The City will 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 to incur any legal or other expenses (whether by retention of outside counsel or allocation of internal resources) in connection therewith, and may comply with any judicial order without prior notice to the disabled individual.

- (b) **Fee.** There shall be no fee imposed by the City in connection with a request for reasonable accommodation under this section or an appeal of a determination on such request to the City Commission, and the City shall have no obligation to pay a requesting party's (or an appealing party's, as applicable) attorney's fees or costs in connection with the request, or an appeal.
 - (c) **City assistance.** The City shall provide such 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 reading application questions, responding to questions, completing the form, filing an appeal, and appearing at a hearing, etc., to ensure the process is accessible.
- (4) **Findings for reasonable accommodation.** In determining whether the reasonable accommodation request shall be granted or denied, the requesting party shall be required to establish that they or the occupants of the housing for which this request is made are protected under the Fair Housing Act and/or the Americans With Disabilities Act by demonstrating that they or the residents of the proposed housing are people with disabilities, as defined in these LDR.
- (a) The requesting party shall demonstrate that the proposed reasonable accommodations sought are reasonable and necessary to afford the subject individual(s) with disabilities an equal opportunity to use and enjoy the housing that is the subject of this request.
 - (b) A request for reasonable accommodation to permit more than ten unrelated individuals to occupy a community residence shall be granted only when the requesting party also meets the standards for community residences promulgated in Section 4.3.3 (1)(4) of these LDR.
 - (c) The foregoing shall be the basis for a written decision with findings of fact upon a reasonable accommodation request made by the City Manager or designee, or by a Special Magistrate in the event of an appeal.
- (5) **Notice of proposed decision.** The City Manager, or his or her designee, shall have the authority to consider and act on requests for reasonable accommodation. When a reasonable accommodation request form has been completed and submitted to the Development

Services Department, it will be referred to the City Manager, or his or her designee, for review and consideration. The City Manager, or his or her designee, shall issue a written determination within ~~45~~ 60 calendar days of the date of receipt of a completed application and may, in accordance with federal law, (1) grant the accommodation request, (2) grant a portion of the request and deny a portion of the request, and/or impose conditions upon the grant of the request, or (3) deny the request, in accordance with federal law. Any such denial shall be in writing and shall state with specificity the objective, evidence-based reasons for the denial and identifying any deficiencies or actions necessary for reconsideration. If a final determination is not made within 60 days after receipt of a completed application, the request is deemed approved unless the City and applicant agree in writing to a reasonable extension of time. ~~the grounds therefore.~~ All written determinations shall give notice of the right to appeal. The notice of determination shall be sent to the requesting party (i.e. the disabled individual or his or her representative) by certified mail, return receipt requested or hand delivery, receipt signed by the recipient. If reasonably necessary to reach a determination on the request for reasonable accommodation, the City Manager, or his/her designee, ~~may, prior to the end of said 45 calendar day period, request additional information from the requesting party, specifying in sufficient detail what information is required.~~ must notify the applicant in writing within the first 30 days after receipt of the application. The requesting party shall have ~~45~~ 30 calendar days after the date of the request for additional information to provide the requested information. In the event a request for additional information is made, the ~~45~~ 60 calendar day period to issue a written determination shall no longer be applicable, and the City Manager, or his or her designee, shall issue a written determination within 30 calendar days after receipt of the additional information. If the requesting party fails to provide the requested additional information within said ~~45~~ 30 calendar day period, the City Manager, or his or her designee, shall issue a written notice advising that the requesting party had failed to timely submit the additional information and therefore the request for reasonable accommodation shall be deemed abandoned and/or withdrawn and no further action by the City with regard to said reasonable accommodation request shall be required.

- (6) ***Appeal.*** Within 30 calendar days after the City Manager's, or his or her designee's, determination on a reasonable accommodation request has been rendered and transmitted to the requesting party, which may be accomplished via hand delivery with signed confirmation of delivery, email with confirmation of delivery, certified mail, or overnight courier service with signature confirmation, the applicant may appeal the decision. All appeals shall contain a statement containing sufficient detail of the grounds providing the basis for the appeal. Appeals shall be filed with the City Manager and shall be to the Special Magistrate who shall, after public notice and a public hearing, render a determination as soon as reasonably practicable within 60 calendar days after the date on which the appeal was filed. An appeal from a decision of the Special Magistrate shall be handled exclusively in the Fifteenth Judicial Circuit Court in and for Palm Beach County, Florida, and such appeal shall be taken by filing a petition for writ of certiorari within 30 days from the date of filing of the written order with the City Clerk or designee.

- (7) ***Stay of enforcement.*** While an application for reasonable accommodation, or appeal of a determination of same, is pending before the City, the City will not enforce the subject zoning ordinance, rules, policies, and procedures against the Applicant.
- (8) ***Request form for reasonable accommodation.***
- (a) ***Contents of reasonable accommodation request form.***
1. Name and contact information of the Applicant or the Applicant's authorized representative;
 2. Information regarding property at which reasonable accommodation is requested, including the address, parcel identification number, and legal description of such location as well as ownership of the subject property;
 3. Describe the accommodation and the specific regulation(s) and/or procedure(s) from which accommodation is sought;
 4. Reasons the accommodation may be necessary for the Applicant or the individuals with disabilities seeking the specific accommodation, and if relating to housing, why the requested reasonable accommodation is necessary to use and enjoy the housing;
 5. Describe qualifying disability or handicap;
 6. Other relevant information pertaining to the disability or property that may be needed by the City in order for it to be able to evaluate the request for reasonable accommodation;
 7. All certified recovery residences must provide proof of satisfactory, fire, safety, and health inspections as required by Section 397.487, Fla. Stats., as amended from time to time;
 8. Signature of applicant;
 9. If on-site supervisor or manager, provide the name and contact information (phone and email) for each;
 10. Date of application;
 11. Disclosure of ownership interests of property;
 12. Owner's consent for application.

- (b) **Reasonable accommodation.** An applicant who seeks a reasonable accommodation to house more than ten unrelated individuals in a community residence shall also complete and submit the form the City requires of all applicants to establish a community residence.
 - (9) **Expiration of approvals.** Approvals of requests for reasonable accommodation shall expire within 180 days if not implemented.
 - (10) **Recertification.** All reasonable accommodation requests approved by the City Manager or his or her designee and implemented by the Applicant pursuant to this Section, 2.4.11(F), "Requests for Accommodation", are valid for no more than one year and shall require annual recertification each year on or before April 1st. Failure to recertify annually shall result in the revocation of the approved reasonable accommodation. Recertification requests shall follow the same requirements as for an initial request pursuant to this Subsection 2.4.11(F) and review of recertification requests shall follow the same procedures as outlined in this Subsection (4), "Notice of Proposed Decision", with the same appellate opportunities afforded to the applicant as provided under this Subsection for "Appeal" except the recertification notice will be sent annually by regular mail or hand delivered.
 - (a) To be recertified, a community residence for which a reasonable accommodation was granted to locate in Delray Beach must provide verifiable evidence that it is currently licensed or certified by the State of Florida to operate at its present location.
 - (b) A community residence for which a reasonable accommodation was granted to locate in Delray Beach that is not currently licensed or certified by the State of Florida to operate at its present location shall obtain licensure, certification or recertification from the designated state entity before the April 1 reasonable accommodation recertification deadline. Failure to obtain state certification or a required state license, or failure to maintain state certification or a required state license, shall result in revocation of the reasonable accommodation and cessation of operations within 60 days of termination of the license or certification.
 - (11) **Severability.** If any part, Section, Subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Section 2.4.11(~~FE~~), "Requests for Accommodation", is declared unconstitutional by the final and valid judgment or decree of any court of competent jurisdiction, this declaration of unconstitutionality or invalidity shall not affect any other part, Section, Subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Section 2.4.11(~~FE~~), "Requests for Accommodation".
- (F) (This Section remains in full force and effect)

Section 4. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 5. Should any section or provision of this Ordinance, or any portion thereof, any paragraph, sentence, or word, be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

Section 6. Specific authority is hereby given to the City Clerk to codify this Ordinance.

Section 7. This Ordinance shall become effective immediately upon its passage on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this ____ day of _____, 2025.

ATTEST:

Alexis Givings, City Clerk

Thomas F. Carney, Jr., Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

First Reading _____

Second Reading _____