

Sec. 158.233. Reasonable accommodation procedures.

- (A) **Purpose and Applicability:** It shall be the policy of the City of Port St. Lucie to provide reasonable accommodation in the application of its 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"). For purposes of this section, a "disabled" individual or person is an individual that qualifies as disabled and/or handicapped under the FHA and/or ADA.
- (B) **Requirements for Filing a Reasonable Accommodation Request:**
- (1) Any person who is disabled (or qualifying entity) (collectively "Applicant") may request a reasonable accommodation with respect to the City's land use or zoning laws, rules, policies, practices and/or procedures as provided by the FHA and the ADA pursuant to the procedures set forth in this section. It is the obligation of the Applicant to establish that they, or those on whose behalf the request is made, are protected under the FHA and/or ADA by demonstrating that they, or those on whose behalf the request is made, are disabled/handicapped as defined by the FHA and/or ADA and that the proposed accommodation is both reasonable and necessary to afford the Applicant, or those on whose behalf the request is made, an equal opportunity to use and enjoy the residential dwelling.
 - (2) A request by an Applicant for a reasonable accommodation under this section shall be in writing by completion of a reasonable accommodation request form, which form is maintained by (and shall be submitted to) the City Attorney's Office. The reasonable accommodation request form shall contain such questions and requests for information as are necessary for processing the reasonable accommodation request.
 - (3) If the request for a reasonable accommodation is made by a qualifying entity on behalf of disabled individuals: (i) it is the continuing obligation of the qualifying entity to submit Verification of Disability Status forms on behalf of each of the disabled individuals. The Verification of Disability Status Form is maintained by (and shall be submitted to) the City Attorney's Office and (ii) the reasonable accommodation request form must be signed by both the owner and the Applicant of the residential dwelling (if different individuals).
 - (4) Should the information provided by the disabled individual(s) or qualifying entity to the City include medical information or records, including records indicating the medical condition, diagnosis or medical history of the disabled individual(s), such individual(s) 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(s). The City shall thereafter endeavor to provide written notice to the disabled individual(s) and/or their representative, of any request received by the City for disclosure of the medical information or documentation, which the disabled individual(s) has previously requested be treated as confidential by the City. The City will cooperate with the disabled individual(s), to the extent allowed by law, in actions initiated by such individual(s) 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(s) or qualifying entity.
- (C) **Spatial Considerations:** If the clustering of Recovery Residences would occur by the granting of an Applicant's reasonable accommodation request, it shall be the obligation of the Applicant to establish that such clustering would not create a fundamental alteration of a residential neighborhood and will best meet the needs of the Applicant.

(D) Reasonable Accommodation Decision Making Process:

- (1) The City Manager, or his/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 City Attorney, it will be referred to the City Manager, or designee, for review and consideration. The City Manager, or designee, shall issue a written determination within thirty (30) days of the date of receipt of a completed application and may, in accordance with federal law:
 - (i) Grant the accommodation request;
 - (ii) Grant a portion of the request and deny a portion of the request, and/or impose conditions upon the grant of the request; or
 - (iii) Deny the request, in accordance with federal law.

Any such denial shall be in writing and shall state the grounds therefor. All written determinations shall give notice of the right to appeal. The notice of determination shall be sent to the Applicant by certified mail, return receipt requested. If reasonably necessary to reach a determination on the request for reasonable accommodation, the City Manager, or designee, may, prior to the end of said thirty (30) day period, request additional information from the Applicant, specifying in sufficient detail what information is required. The Applicant shall have fifteen (15) 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 thirty (30) day period to issue a written determination shall no longer be applicable, and the City Manager, or designee, shall issue a written determination within thirty (30) days after receipt of the additional information. If the Applicant fails to provide the requested additional information with said fifteen (15) day period, the City Manager, or designee, shall issue a written notice advising that the Applicant 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.

- (2) Within thirty (30) days after the City Manager's, or designee's, determination on a reasonable accommodation request is mailed to the Applicant, such Applicant may appeal the decision. All appeals shall contain a statement containing sufficient detail of the grounds for the appeal. Appeals shall be to the Special Magistrate who shall, after public notice and a quasi-judicial public hearing, render a determination as soon as reasonably practicable, but in no event later than thirty (30) days after an appeal has been filed. An appeal of a decision by the Special Magistrate shall be handled exclusively in the Nineteenth Judicial Circuit in and for St. Lucie County, Florida. Such appeal shall be taken by filing a petition for writ of certiorari within thirty (30) days from the date of filing of the written order by the City Clerk.

- (E) Reapplication after Denial of a Reasonable Accommodation Request:** No reasonable accommodation request shall be considered by the City if the Applicant's same or substantially similar reasonable accommodation request was denied, and not overturned by subsequent order, within the previous twelve (12) months absent a material and substantial change in circumstances from the date of the denial. It shall be in the City Attorney's sole discretion to determine whether a material and substantial change in circumstances has occurred.

(F) Revocation of an Approved Reasonable Accommodation Request:

- (1) **Grounds for Revocation.** The City Manager, or designee, may initiate an action to revoke an approval for a reasonable accommodation request, when he or she finds by competent and substantial evidence that:
 - (i) The Applicant provided false or misleading information on the reasonable accommodation request;

- (ii) The property subject to the reasonable accommodation request has been found to be in violation the conditions of approval of the reasonable accommodation request;
 - (iii) Any applicable state or federal certification has expired or been revoked; or
 - (iv) Since the granting of the reasonable accommodation request, the reasonable accommodation has become injurious to the health, safety or welfare of the public.
- (2) **Revocation Procedures.**
- (i) **Notice of Intent to Revoke.** If the City Manager, or designee, finds cause exists to revoke a reasonable accommodation, he or she shall cause to be served upon the Applicant a written notice of intent to revoke which shall contain the grounds upon which such revocation is proposed. The applicant shall have ten (10) days in which to respond.
 - (ii) **Notice of Hearing.** If the Applicant fails to show compliance with the order approving the reasonable accommodation request, City Manager, or designee, shall schedule a publicly noticed quasi-judicial hearing to occur no later than thirty (30) days from the date the Notice of Intent to Revoke was served upon the Applicant before the Special Magistrate and shall cause to be served upon the Applicant a Notice of Hearing.
 - (iii) The Special Magistrate shall, after public notice and a quasi-judicial public hearing, render a determination as soon as reasonably practicable, but in no event later than thirty (30) days after the Notice of Hearing has been filed. An appeal of a decision by the Special Magistrate shall be handled exclusively in the Nineteenth Judicial Circuit in and for St. Lucie County, Florida. Such appeal shall be taken by filing a petition for writ of certiorari within thirty (30) days from the date of filing of the written order by the City Clerk.
- (G) **Annual Renewal:** An approval of a reasonable accommodation request shall be valid for twelve (12) months. An Applicant may renew the reasonable accommodation request approval by completion of a renewal reasonable accommodation request form, which form is maintained by (and shall be submitted to) the City Attorney's Office. The renewal reasonable accommodation request form shall contain such questions and requests for information as are necessary for processing the reasonable accommodation renewal request. Said form must be received by the City Attorney no later than the last day of the eleventh month from when the last approval was granted. All forms submitted after that date shall result in a denial.
- (H) **Fees:** 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 of such request to the Special Magistrate, and the City shall have no obligation to pay an Applicant's (or an appealing party's, as applicable) attorneys' fees or costs in connection with the request, or an appeal.
- (I) **Pending Application or Appeal and Enforcement of Zoning Code:** 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.
- (J) **General Provisions:**
- (1) The City shall display a notice on the City's webpage (and shall maintain copies available for review in P&Z, the Building/Permitting Division, and the City Clerk's Office), advising the public disabled individuals (and qualifying entities) may request reasonable accommodation as provided herein.
 - (2) A disabled individual may apply for a reasonable accommodation on his/her own behalf or may be represented at all stages of the reasonable accommodation process by a person designated by the disabled individual.
 - (3) 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.

(K) Supplemental Procedures for Certified Recovery Residences:

- (1) Pursuant to Section 397.487, Florida Statutes, supplemental procedures apply to reasonable accommodation applications for certified recovery residences.
- (2) This subsection shall be interpreted in accordance with Chapter 397, Florida Statutes.
- (3) To the extent not in direct conflict with this subsection, the general procedures of this Section shall apply to reasonable accommodation requests pertaining to certified recovery residences. However, the Applicant must identify, at the time of initial application, that it is an application for a certified recovery residence for the provisions of this subsection to apply.
- (4) Upon receipt of an application to operate a certified recovery residence, the application shall be date-stamped. If additional information is required, the Applicant must be notified in writing within 30 days after receipt of the application and allow the Applicant at least 30 days to respond.
- (5) The City Manager must issue a final written determination on the application within 60 days after receipt of a completed application. The determination must:

 - (a) Approve the request in whole or in part, with or without conditions; or
 - (b) Deny the request, stating with specificity the objective, evidence-based reasons for denial and identifying any deficiencies or actions necessary for reconsideration.
- (6) If a final written determination is not issued within 60 days after receipt of a completed application, the request is deemed approved unless the parties agree in writing to a reasonable extension of time.
- (7) The application shall utilize the forms maintained by the City Attorney's Office for other reasonable accommodation requests. At minimum, the application must include:

 - (a) The name and contact information of the Applicant or the Applicant's authorized representative;
 - (b) The property address and parcel identification number; and
 - (c) A description of the accommodation requested and the specific regulation or policy from which relief is sought.

The above requirements shall not be interpreted to limit the information an Applicant is obligated to provide in order for the application to be deemed complete.
- (8) A reasonable accommodation for a certified recovery residence may be revoked pursuant to the provisions of subsection (F) above. However, a lapse, revocation, or failure to maintain certification or licensure required under Section 397.487, Florida Statutes, may not provide a basis for revocation unless such certification or licensure has not been reinstated within 180 days of the initial lapse or revocation.

(Am. Ord. 13-04, § 1, passed 1-22-13; Ord. No. 17-79, § 3, 11-27-17)