

Exhibit A

155.203 DEFINITIONS

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Recovery Residence: A residential dwelling that provides a peer-supported, alcohol- and drug-free living environment and is certified under Section 397.487, Florida Statutes or chartered as an Oxford House. A Recovery 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 exclusively for either prison pre-parolees or sex offenders, even if they are also in recovery. Recovery Residences do not include community residential homes that are defined in Section 419.001(1)(a), Florida Statutes, as amended.

Reasonable Accommodation: A modification or exception to land use or zoning regulations necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling.

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Sec. 155.535. REASONABLE ACCOMMODATION APPLICATION FOR RECOVERY RESIDENCE.

A. PURPOSE AND INTENT

The purpose of this ordinance is to establish a uniform process for the review and approval of reasonable accommodations for recovery residences, in accordance with Chapter 397, Florida Statutes, the Fair Housing Amendments Act (42 U.S.C. § 3601 et seq.), and the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.).

This ordinance is intended to ensure that individuals recovering from substance use disorders have access to housing in a manner consistent with federal and state law.

The City reviewed a study commissioned by the State of Florida (Daniel Lauber, *Reforming State and Local Zoning for Community Residences for People With Disabilities and for Recovery Communities*, July 2024), as well as studies commissioned by the City of Delray Beach (August 2017), the City of Pompano Beach (February 2018), and the City of Fort Lauderdale (February 13, 2018), all titled *Principles to Guide Zoning for Community Residences for People with Disabilities* and prepared by Daniel Lauber, AICP.

These studies highlight the importance of promoting the health and well-being of individuals with disabilities by supporting community integration and normalization. A key

conclusion is that when recovery residences are clustered too closely—specifically, within 660 feet of one another—there is a significant risk that these goals will be undermined.

To support healthier recovery environments and promote community integration, the City has adopted a minimum separation requirement of 660 feet between recovery residences, as measured from the nearest borders of each property.

B. Application and Review Process

1. **Application Required:** Any person or entity seeking to operate a recovery residence in a single-family residential zone must apply to the City’s Planning and Economic Development Department for a reasonable accommodation.

Applications must include:

- a) The name and contact information of the applicant or the applicant’s authorized representative and certified recovery residence administrator who will be actively managing the applicant recovery residence; and
- 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; and
- d) Application fee; and
- e) The required documentation under subsection 2.

2. **Required Documentation:**

- a) Proof of application for certification under F.S. § 397.487 or charter approval as an Oxford House.
- b) Site plan and description of the residence.
- c) Ownership information for the parcel where the residence will be located.
- d) The number of anticipated residents, including any resident staff.
- e) Proof of owners’ and any administrators’ state certification, or application for certification.
- f) A signed affidavit stating that the applicant agrees to notify the City within 10 days if it fails to comply with the certification or Oxford House charter requirement within 90 days after it is approved for a reasonable accommodation; and further stating that it will notify the City within 10 days if the recovery residence loses its certification or charter.
- g) A completed fire inspection performed by the City’s Fire Marshal.

3. **Review Timeline:** City Planning and Economic Development staff shall date-stamp each application for a reasonable accommodation upon receipt and notify the applicant within 30 days of receipt if more information is needed for the application to be processed, giving the applicant 30 days to respond and provide

the required information. See Fla. Stat. § 397.487(15)(b)3. If the applicant does not supply the required information within 30 days, the application will be deemed abandoned. City Planning and Economic Development staff shall notify the applicant by First Class Mail that the application has been deemed abandoned. The notice shall include the specific information the City requested that was not provided as the reason for denial-as-abandoned.

4. Evaluation Criteria

City staff shall use the following criteria to evaluate applications requesting reasonable accommodations for recovery residences:

- a) Consistency with the Fair Housing Amendments Act of 1988, 42 U.S.C. ss. 3601 et seq., and Title II of the Americans with Disabilities Act, 42 U.S.C. ss. 12131 et seq.
- b) Compliance with applicable zoning district requirements.
- c) Certification or charter status, or application for either certification nor charter; certification status of administrative staff or owners.
- d) The distance from the proposed recovery residence and any existing recovery residence, with a minimum distance of at least 660 feet between the proposed recovery residence and any existing recovery residence or existing Special Residential Facility, as defined in Section 12 of the Future Land Use Element of the City's Comprehensive Plan. Distance shall be measured from the closest property lines.
- e) Any other conditions deemed reasonable by City staff.

5. Application Processing

- a) The City Planning and Economic Development staff shall issue a written determination within 60 days of receiving a completed application for a reasonable accommodation. See Fla. Stat. §397.487(15)(b)4. If the determination is to deny the application, the City will provide specific, objective, evidence-based reasons for the denial and identify any deficiencies or actions necessary for the application to be reconsidered.
- b) If a final written determination is not issued within 60 days after receipt of a completed application and the parties have not agreed to an extension of time, the application is deemed approved. See Fla. Stat. § 397.487(15)(b)5.

6. Revocation

The city may revoke a granted accommodation of a certified recovery residence for cause, including, but not limited to:

- a) A violation of the conditions of approval;
- b) The lapse, revocation, or failure to maintain certification, charter, or licensure required under this section, if not reinstated within 180 days;
- c) Failure to renew its annual registration.

7. Registration Renewal

Once approval for a reasonable accommodation has been granted, the owner agrees to renew registration of the recovery residence annually, on the date of the first approval.

8. Enforcement and Penalties

- a) Enforcement Responsibilities. The Planning and Economic Development Department, Code Compliance Division and other applicable departments shall be responsible for enforcing the provisions of this LDC. The City Manager or their designee may delegate authority to another City Official to aid in the enforcement of the provision of this LDC.
- b) Code Enforcement Violation and Hearing Procedures. Code Enforcement violation and hearing procedures shall be consistent with procedures set forth within Chapter 32 of the City Code of Ordinances and Chapter 162 of the Florida Statutes, as may be amended from time to time. Failure to comply with this ordinance may result in revocation of approval and/or enforcement action under the City's zoning code.

Secs. 155.536 to 155.549 are reserved.

Sec. 155.535~~50~~ SCOPE, APPLICATION OF REGULATIONS.

The provisions of this subchapter are intended to apply only to nonconforming uses, and are not intended to apply to buildings, structures, and their lots, existing at the effective date of this LDC which do not meet the regulations of this subchapter.

Sec. 155.536~~51~~ EXISTING USE.

Any lawful use of land or structure existing at the effective date of this LDC, and which by its terms has become a nonconforming use, is hereby declared not to be in violation at this Code's effective date. Such a nonconforming use shall be subject to all of the provisions of this section pertaining to its continuance, change, and discontinuance.

Sec. 155.537~~52~~ EXTENSION OF NONCONFORMING USE.

(A) The nonconforming use of a building may be extended throughout any part of a building clearly designed for that use but not so used at the effective date of this LDC.

(B) Any nonconforming use which occupied a portion of a building not originally designed or intended for that use shall not be extended to any other part of the building.

(C) No nonconforming use shall be extended to occupy any land outside the building nor any additional building on the same lot, not used for that nonconforming use at the effective date of this LDC.

(D) The nonconforming use of land shall not be extended to any additional land not so used at the effective date of this LDC, except as provided under § 155.6112.

Sec. 155.538~~53~~ CHANGE OF NONCONFORMING USE.

(A) In any residential district, any change of a nonconforming use in a conforming building shall be to a conforming use.

(B) In any residential district, a nonconforming use in a nonconforming building shall be changed only to a use permitted in the particular residential district involved, except as provided in division (C) of this section.

(C) There may be change of tenancy, ownership, or management of a nonconforming use, provided there is no change in the nature or character of the nonconforming use, except as may be permitted by this subchapter.

(D) In a nonresidential district, a non-conforming use in a nonconforming structure may be replaced by a new or different use permissible in the same zoning district as the original nonconforming use or in a more restricted zoning district; if the Board of Adjustment, after public hearing, finds that the new or different use will be less detrimental to the surrounding neighborhood than the old use, and approves the new or different use as being in accordance with the spirit and purpose of this subchapter.

(E) Any change of a nonconforming use of land, except as incidental to a change of a nonconforming use of a nonconforming structure permitted and approved under division (D) of this section, shall be to a conforming use.

Sec. 155.539~~54~~ DISCONTINUANCE, ABANDONMENT.

(A) If for any reason the nonconforming use of a building ceases or is discontinued for a period of one year or more, the building shall not thereafter be used for a nonconforming use.

(B) Any part of a building, structure, or land, occupied by a nonconforming use, which use is abandoned, shall not again be occupied or used for a nonconforming use.

(C) Any part of a building, structure, or land occupied by a nonconforming use, which is changed to or occupied by a conforming use, shall not thereafter be used or occupied by a nonconforming use.

Sec. 155.540~~54~~55 CONTINUANCE.

Any legal nonconforming use or structure may remain until modified or altered.

Sec. 155.541~~54~~56 CHANGE IN ZONING CLASSIFICATION OR REGULATION.

(A) The provisions of this subchapter shall also apply to buildings, structures, land, premises or uses which hereafter become nonconforming due to a change or reclassification of district; or which become nonconforming due to a change in district regulations.

(B) Where a period of time is specified in this section for the removal or discontinuance of nonconforming buildings, structures, or uses, that period shall be computed from the effective date of the reclassification or change of regulations.

Sec. 155.542~~54~~57 UNLAWFUL USE NOT AUTHORIZED.

Nothing in this LDC shall be interpreted as authorization for, or approval of, the continuation of the use of the structure or premises in violation of any resolution in effect at the effective date of this LDC.

Sec. 155.543~~54~~58 ILLEGAL USE.

The casual, temporary, or illegal use of land or a building shall not be sufficient to establish the existence of a nonconforming use or to create any rights in the continuance of such a use.

Sec. 155.544~~54~~59 NUISANCES PROHIBITED.

(A) Nothing shall be allowable on the premises in any district provided for in this chapter that shall in any way be offensive or obnoxious by reason of the emission of odors, gases, dust, smoke, vibration, or noise, including the crowing of cocks, barking of dogs, or any noises or odors emanating from any animal, fish, or fowl. Nor shall anything be constructed or maintained that would in any way constitute an eye-sore or nuisance to adjacent property owners or residents or to the community.

(B) Each and every one of the following conditions or acts is considered to be a nuisance. For the purpose of this section, NUISANCE means a person, thing, or circumstance causing inconvenience or annoyance.

(1) Fire hazards. Dry or dead shrubs, dead trees, combustible waste and refuse, or any material growing on a street or sidewalk or upon private property within the city which by reason of its size, manner of growth, and location constitutes a fire hazard to a building or other property or, when dry, will in reasonable probability constitute a fire hazard.

(2) Hazardous obstructions. An obstacle, landscaping, or thing installed or maintained in the corner setback area, reaching a height higher than four feet above the adjoining top of curb at the applicable corner of the street, intersection of four feet above the nearest pavement surface where there is no curb, or existing traveled roadway at the corner in question where there is no curb or pavement. Hazardous obstructions do not mean existing or future permanent buildings, otherwise constructed or maintained in accordance with applicable zoning and building regulations, public utility poles, trees trimmed at the trunk at least eight feet above the level of ground surface, provided that the trees are spaced so that the trunks do not obstruct the vision of motorists.

(3) Animals in residential zones. Prohibited to keep or maintain chickens or other farm animals, and four or more dogs over the age of four months old.

(4) Polluted water. A swimming pool, pond, or other body of water which is abandoned, unattended, unfiltered, or not otherwise maintained, resulting in the water becoming polluted. For the purpose of this section POLLUTED WATER means water contained in a swimming pool, pond, or other body of water which includes, but is not limited to, bacterial growth, algae, remains of insects, remains of deceased animals, reptiles, rubbish, refuse, debris, papers, and any other foreign materials or matter which because of its nature or location constitutes an unhealthy, unsafe, or unsightly condition.

(5) Public burning. The intentional out-door burning of any material, structure, matter, or thing unless otherwise specifically authorized.

(6) Refuse and waste. Refuse and waste matter, which by reason of its location and character is unsightly and interferes with the reasonable enjoyment of property by neighbors, detrimentally affects property values in the surrounding neighborhood or community, or which would materially hamper or interfere with the prevention or suppression of fire upon the premises. For the purpose of this section REFUSE and WASTE means unused or discarded matter and material having no substantial market value, and which consists of such materials as: rubbish, refuse, debris, and matter of any kind, including but not limited to rubble, asphalt, concrete, plaster, tile, rocks, bricks, soil, building materials, crates, cartons, containers, boxes, machinery or parts thereof, scrap metal and any other pieces of metal, ferrous or nonferrous, furniture, trimmings from plants and trees, cans, bottles, and barrels.

(7) Maintenance of property. It is declared a public nuisance for any person owning, leasing, occupying, or having charge or possession of any premises in this city to maintain the premises in such a manner that any of the following conditions are found to exist thereon:

- (a) Buildings which are abandoned, boarded up, partially destroyed, or left unreasonably in a state of partial construction.
 - (b) Unpainted buildings causing dry rot, warping, and termite infestation.
 - (c) Broken windows constituting hazardous conditions and inviting trespassers and malicious mischief.
 - (d) The accumulation or allowing overgrown and useless vegetation, but not limited to, grasses, weeds, shrubs, and plot line hedges.
 - (e) Weeds and grass growth in rocked landscaped areas.
 - (f) Driveways containing pot holes or eroded areas.
 - (g) Household items, papers, cardboard, vehicle parts, cans, drums, wood, and debris stored in an open carport, to the extent that it creates an eyesore to the abutting resident or residents of the city.
 - (h) Landscape not maintained in a healthy growing condition, yard and swale areas void of landscape (grass) or other accepted landscape materials.
 - (i) Nothing shall be allowable on the premises in any district that shall in any way be offensive or obnoxious by the emission of odors, gases, dust, smoke, or vibration.
 - (j) Septic tank drain fields, failure of drainfields as evidenced by odors, saturated adjacent top soil, or unusual growth of vegetation.
- (8) Permitted fences and utility sheds. Sheds and fences that are unsightly by reason of disrepair, which includes but is not limited to broken slats, rotten posts, or other missing members, and in a state of dilapidation or arrangement that is deemed unsafe for the purpose they were intended.
- (9) Maintenance of buildings and property or sites under development or construction. Property which is maintained in such a condition as to become so defective, unsightly, or in such a condition of deterioration or disrepair that the same causes depreciable diminution of the property values of surrounding property or is materially detrimental to proximal properties and improvements. This includes but is not limited to the following:
- (a) Peeled and unpainted surfaces of buildings including wood and concrete.
 - (b) Graffiti covering exterior surfaces.
 - (c) Rotted or decayed wood trim.
 - (d) Screen enclosures that are required for pools, that contain missing or ripped sections and screening on main building structures with ripped and torn panels.
 - (e) Buildings or structures maintained in violation of the South Florida Code as adopted by the city.

(f) Landscape not maintained in a healthy growing condition, yard and swale areas void of landscape (grass) or other accepted landscape materials.

(g) Construction fencing windscreens with rips, holes, tears, discoloration, weathering and or general disrepair.

(10) Maintenance of premises. So out of harmony of conformity with the maintenance standards of adjacent properties as to cause substantial diminution of the enjoyment, use, or property values of such adjacent properties.

(11) Property affecting tax receipts. Property maintained (in such relation to surrounding property) so as to establish a prevalence of depreciated values, impaired investments, and social economic maladjustments to such an extent that the capacity to pay taxes is reduced and tax receipts from such particular areas are inadequate for the cost of public services rendered therein.

(C) Notice to abate. When the Code Enforcement Officer or Building Official finds that any premises or property within the city may be maintained contrary to one or more of the provisions of this section, he shall notify the owner, lessee, occupant, mortgagee, or beneficiary by written notice, served personally or posted on the premises, stating the conditions which constitute the public nuisance and shall order the abatement of the nuisance by a time period consistent with the nature of the violation. Failure to bring about compliance within the time stated shall result in a summons before the Code Enforcement Board, the Special Master, or the County Court. The summons shall be served according to state statutes.

(D) Abatement by the city. If the person fails to abate the nuisance within the time set forth, the city may proceed to abate the nuisance.

(E) Record of expenses. The city shall keep an itemized account of the expenses involved in abating the nuisance. The city shall post conspicuously on the property and shall also mail to the owner of the property a statement showing the expense of the abatement, together with a notice of the time and place when the statement will be submitted to the Commission for approval and confirmation, and at which time the Commission shall consider objections or protests to the cost of the work.

(F) Procedure in case of emergency. When the conditions which constitute the nuisance pose an immediate threat to the public peace, health, or safety, the Commission may order the nuisance abated immediately or take steps itself to abate the nuisance, after adoption of a resolution declaring the facts which constitute the emergency.

(G) Graffiti.

(1) No person shall write, paint, or draw any inscription, figure, or mark of any type on any public or private building or other real or personal property, owned, operated, or maintained by a governmental entity or any agency or instrumentality thereof or by any person, firm, or corporation, unless the express permission of the owner or operator of the property has been obtained and any required permits are obtained.

(2) No person shall carry an aerosol spray paint can or broad-tipped indelible marker with the intent to violate the provisions of division (G)(1).

(3) For the purposes of this section, the term BROAD-TIP INDELIBLE MARKER means any marker or similar implement which contains a fluid which is oil or water based and which has a flat or angled writing surface 1/4 inch or greater.

(4) For the purposes of this section, EFFECTIVELY OBSCURE shall mean to clean or remove any and all graffiti and shall not mean the blacking out of and graffiti.

(5) Any person convicted of a violation of this division (G) shall be punished by a fine of not more than \$250 for a first offense and of not more than \$500 dollars for a second or subsequent offense, or by imprisonment in the county jail for a term not to exceed 60 days, or by both such fine and imprisonment in the discretion of the court. Where a minor is found to have violated division (G)(1) or (2) or both, the fine imposed by this section shall be assessed against such minor's parents or legal guardian.

(6) In addition to any punishment, the court shall order the defendant to make restitution to the victim for damage or loss caused directly or indirectly by the defendant's offense in a reasonable amount or manner to be determined by the court. Where the defendant is a minor, the court shall order the parent or legal guardian of such minor to make such restitution.

(7) In addition to any punishment, the court may in its discretion order the defendant to perform monitored community service.

(8) Whenever the city becomes aware of the existence of graffiti on an property, including structures or improvements within the city, a code enforcement officer is authorized, upon such discovery, to give or cause to be given notice to remove or effectively obscure such graffiti to the property owner, the property owner's agent or manager, or other person in possession or control of the property.

(9) It shall be unlawful for any person or firm owning the property, acting as manager or agent for the owner of property, or in possession or control of property to fail to remove or paint over in any aesthetically acceptable manner any graffiti from such property within ten days from receipt of the notice described in division (G)(8). If the person or firm owning such property, acting as manager or agent for the owner of such property, or in possession or control of such property fails to remove or effectively obscure the graffiti within the time period enumerated above, the city shall cause the graffiti to be removed or effectively obscured and charge the property owner, or property owner's manager or agent, for the expenses incurred by the city. The city may sue in a court of competent jurisdiction to recover such expenses, together with attorney's fees and costs.

(10) Any person or firm owning property, acting as agent or manager for the owner of such property, or in possession or control of such property who commits a violation of division (G)(9) shall be punished by a fine of not more than \$500. In deciding the amount of fine to impose, the court shall consider the efforts taken by the violator, if any, to remove or effectively obscure the subject graffiti in a timely manner and how often the violator has been victimized by graffiti during the preceding calendar year. The

provisions of this division (G)(10) shall not apply to a property owner, manager, agent, or possessor of property if, in the sole determination of the City Manager or his designee, such property owner, agent, manager, or possessor has been victimized two or more times by graffiti within any calendar year, and, during such time, has removed or effectively obscured such graffiti from the property in a timely manner.

(11) There is hereby created the city Anti-Graffiti Trust Fund. Civil penalties assessed against the violators of this section pursuant to the procedures set forth in this section ultimately received by the city shall be placed in the fund. The City Commission shall direct the expenditure of monies in the fund. Such expenditures shall be limited to the payment of the cost of removal of graffiti, the costs of administering this section, and such other public purposes as may be approved by the City Commission by resolution.

(H) Schedule of civil penalties.

(1) First offense: \$ 250

(2) Second offense: \$500, and/or

(3) Imprisonment for not more than 60 days.

(4) Any victim who fails to remove or obscure graffiti within the time period prescribed herein shall be fined not more than \$500, to be determined at the discretion of the City Manager or his designee.

(5) In addition to any punishment or fine, the court may, in its discretion, order the defendant to perform monitored community service.

Sec. 155.550~~60~~ LIMITATIONS OF USES.

In the B-1, B-2, B-3 and PO zoning district all activities of permitted uses including but not limited to sale, display, storage, preparation shall be conducted within a completely enclosed building unless otherwise stated here within.