

**ORDINANCE NO. 2025-2\_\_**

**AN ORDINANCE OF THE TOWN OF EATONVILLE, FLORIDA, RELATING TO THE LAND DEVELOPMENT CODE; AMENDING CHAPTER 60 TO ADD ARTICLE XX, ESTABLISHING A PROCESS FOR THE REVIEW OF REASONABLE ACCOMMODATION REQUESTS FOR CERTIFIED RECOVERY RESIDENCES PURSUANT TO FLORIDA STATUTES SECTION 397.487; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Section 397.487(15)(a), Florida Statutes, mandates that by no later than January 1, 2026, each municipality and county in the State of Florida must adopt an ordinance establishing procedures for the review and approval of certified recovery residences; and

**WHEREAS**, Section 397.487(15)(a), Florida Statutes, further mandates the inclusion within such ordinance of a process for requesting reasonable accommodations from any local land use regulation that serves to prohibit the establishment of a certified recovery residence; and

**WHEREAS**, Section 397.487(15)(b), Florida Statutes, provides that the regulation of the establishment of certified recovery residences must be consistent with the Fair Housing Amendments Act of 1988 (42 U.S.C. §§ 3601 et seq.) and Title II of the Americans with Disabilities Act (42 U.S.C. §§ 12131 et seq.); and

**WHEREAS**, the Town of Eatonville Planning and Zoning Board held a public hearing, with all required public notice, on [REDACTED] to provide recommendations to the Town Council on this Ordinance to amend the Land Development Code and recommend that the Town Council adopt the Ordinance; and

**WHEREAS**, adoption of this Ordinance ensures that the Town of Eatonville complies with Section 397.487(15), Florida Statutes, and that the best interest of the public health, safety, and welfare is served.

**NOW THEREFORE, BE IT ENACTED BY THE TOWN COUNCIL OF THE TOWN OF EATONVILLE, FLORIDA:**

(Note: additions indicated by underline; deletions indicated by ~~striketrough~~; and text that shall remain unaltered that is not reproduced here is indicated by ellipses (\*\*\*)

**SECTION 1.** The recitals set forth above are hereby adopted as the legislative findings of the Town Council of the Town of Eatonville, Florida.

**SECTION 2.** Chapter 60, Article XX, *Requests for Accommodations by Certified Recovery Residences*, of the Town of Eatonville Land Development Code, is hereby created to read as follows:

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**Sec. 60-862. - REQUESTS FOR ACCOMMODATIONS BY CERTIFIED RECOVERY RESIDENCES.**

- (1) *Purpose and applicability.* The purpose of this section is to establish procedures for review and approval of reasonable accommodation requests to the Town’s land use and zoning ordinances, rules, regulations, policies, and procedures that may prohibit establishment of certified recovery residences pursuant to section 397.487, Florida Statutes. Facilitating reasonable accommodation requests ensures that individuals with a disability and/or handicap have equal opportunity to use and enjoy dwellings, buildings or structures, or to provide accessibility in another manner, 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. §§ 12131 et seq. (“ADA”). For purposes of this section, a “disabled” person is an individual who 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 Town’s Land Development Code, Code of Ordinances, rules, regulations, policies, or procedures as provided by the FHA and the ADA pursuant to the procedures set out in this section.
- (2) *Applicant.* Any person who is disabled or a provider of services to disabled individuals qualifying for a reasonable accommodation, collectively referred to as “Applicant” in this subsection, may request a reasonable accommodation to the Town’s land use and zoning ordinances, rules, regulations, policies, and procedures that prohibit establishment of certified recovery residences. It is the responsibility of the Applicant to establish that they, or those who are being provided recovery services, are protected individuals under the FHA and/or ADA by demonstrating that the proposed accommodation is reasonable and necessary to afford the Applicant, or those who are being provided services, an equal opportunity to use and enjoy a residential dwelling.
- (3) *Application Procedure.* A request for reasonable accommodation shall be made to the Planning Director of the Planning and Zoning Department. An application for reasonable accommodation must, at a minimum, provide the following:
  - a. Name and contact information of the Applicant or the Applicant’s authorized representative;
  - b. Property address and parcel identification number of where the reasonable accommodation is being requested. If the Applicant is not the owner of the property, then the contact information for the owner and an owner’s authorization form is also required;

- c. A description of the accommodation and the specific regulation(s) and/or procedures from which the accommodation is sought;
- d. Reasons the accommodation may be necessary for the Applicant or those who are being provided services;
- e. A description of the qualifying disability or handicap;
- f. A certification signed by the Applicant stating: I CERTIFY UNDER PENALTY OF PERJURY THAT THE INFORMATION PROVIDED IN THIS REQUEST IS TRUE AND CORRECT. I UNDERSTAND THAT IF I KNOWINGLY PROVIDE FALSE INFORMATION WITH THIS REQUEST, MY REQUEST SHALL BECOME NULL AND VOID;
- g. A verification of disability status form executed by someone with personal knowledge of the Applicant's, or those who are being provided services', disability, such as a medical or social services professional;
- h. Any additional information or documentation the Applicant feels is necessary to supplement the request for reasonable accommodation.
- i. Signature of the Applicant and date.

The Planning Director of the Planning and Zoning Department will date-stamp the application upon receipt and notify the Applicant, in writing, within 30 days if additional information is required. The Applicant must provide the additional information within 30 days. Failure of the Applicant to provide a response within 30 days will result in the application being denied, unless the Applicant requests an extension of time in writing.

(4) Review. Within 60 days of receiving a completed application, the Planning Director of the Planning and Zoning Department, or designee, shall review the request for reasonable accommodation and make a determination consistent with the FHA and/or ADA, after considering all of the following:

- a. Whether the Applicant has established that they are protected under the FHA and/or ADA by demonstrating that they or those being provided recovery services, are handicapped or disabled, as defined in the FHA and/or ADA. To do this, the following must be shown:
  - 1. A physical or mental impairment which substantially limits one (1) or more major life activities;
  - 2. That they are regarded as having such impairment; and
  - 3. A record of having such impairment.
- b. Whether the requested accommodation is reasonable and necessary to afford the Applicant an equal opportunity to use and enjoy the dwelling, building or structure, or provides accessibility in another manner.
- c. Whether the requested accommodation would impose an undue financial or administrative burden on the Town.
- d. Whether the requested accommodation would require a fundamental alteration in the nature of the land use and zoning regulations of the Town.

If the Planning Director of the Planning and Zoning Department, or designee, finds that the requested accommodation will impose an undue financial or administrative burden on the Town or will require a fundamental alteration in the nature of the Town's land use and zoning regulation, they may consider whether an alternative reasonable accommodation exists which would effectively meet the disability-related need. An alternative reasonable accommodation may be the requested accommodation with conditions. In conducting the review, the Planning Director of the Planning and Zoning Department, or designee, may make a site visit to the property where the reasonable accommodation is being requested.

- (5) *Determination.* Once review of the request is complete, the Planning Director of the Planning and Zoning Department, or designee, will make a determination in writing to:
- a. Approve the reasonable accommodation request in whole or in part, with or without conditions; or
  - b. Deny the reasonable accommodation request, in accordance with state and federal law, and state the objective evidence-based reasons for denial and identify any deficiencies or actions necessary for reconsideration.

The written determination by the Planning Director of the Planning and Zoning Department, or designee, shall also include the Applicant's right and method to appeal the determination. If the written determination is not issued within 60 days after receipt of the completed application, the reasonable accommodation request is deemed approved unless the parties agree in writing to a reasonable extension of time.

- (6) *Appeals.* Applicant shall have 30 days from the date of the Planning Director of the Planning and Zoning Department, or designee's, written determination to appeal the determination or any conditions included therein, to the City Council. Appeals must be made in writing and include the name of the Applicant, address and contact information, a written summary of the reason for the appeal, and an explanation of why the determination or condition is in error. Appeals shall be submitted to the City Council. The City Council shall issue a final decision on the appeal within 45 days of submitting the appeal to City Council.
- (7) *No Fee.* There shall be no fee imposed by the Town for the reasonable accommodation request process outlined in this section.
- (8) *Stay of Enforcement.* While a request for reasonable accommodation, or its appeal, is pending, the Town will not enforce any applicable land use and zoning ordinances, rules, regulations, policies, and procedures against the Applicant.
- (9) *Expiration of Approvals.* Approval of requests for reasonable accommodation shall expire within one hundred eighty (180) days if not implemented.

- (10) Revocation of Reasonable Accommodation. Any reasonable accommodation received shall be deemed revoked if the Applicant or the property upon which the accommodation is granted is found in violation of any conditions of the approval granting the reasonable accommodation by a court of law or by the code enforcement board hearing code enforcement cases. Failure to obtain state certification or a required state license, or failure to maintain state certification or a required state license or alternate certification permitted by this section, shall result in revocation of the reasonable accommodation and cessation of operations within sixty (60) days of termination of the license or certification.
- (11) Confidential Information. Should the information provided by the Applicant to the Town 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 Town, to the extent allowed by law, treat such medical information as confidential information of the disabled individual(s).
- (12) General Provisions. The following general provisions are applicable to all reasonable accommodation requests:
- a. The Applicant may apply for a reasonable accommodation on their own behalf or may be represented at all stages of the reasonable accommodation process by an attorney, legally appointed guardian, or other person designated by Applicant as a power of attorney.
  - b. In the event that a reasonable accommodation is granted, the Applicant shall continue to comply with any and all other applicable building and/or permitting processes required by the Town's Code of Ordinances and Land Development Code and all other state and federal laws.
  - c. A reasonable accommodation is specific to the Applicant and does not run with the subject property.

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**SECTION 3.** All Town ordinances or parts thereof in conflict herewith are, to the extent of such conflict, repealed.

**SECTION 4.** It is the intent of the Town Council of the Town of Eatonville that the provisions of this Ordinance shall be codified. The codifier is granted broad and liberal authority in codifying the provisions of the Ordinance.

**SECTION 5.** If any section, subsection, clause, or provision of this Ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this Ordinance.

**SECTION 6.** This Ordinance shall become effective upon its adoption.

**Upon motion duly made and carried,** the foregoing ordinance was approved upon its first reading on \_\_\_\_\_, 2007.

**Upon motion duly made and carried,** the foregoing ordinance was approved upon its second reading on \_\_\_\_\_, 2007.

**TOWN OF EATONVILLE**

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Ruthi Critton

Attest:

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Veronica L. King, Town Clerk

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Trinetta Fisher, Interim Town Attorney

Approved as to form: