



TOWN OF HIGHLAND BEACH

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AMENDING ARTICLE VII, "ADMINISTRATION AND ENFORCEMENT," OF CHAPTER 30, "ZONING CODE," OF THE TOWN CODE OF ORDINANCES BY ADOPTING A NEW SECTION 30-124, "REASONABLE ACCOMMODATION PROCEDURE FOR CERTIFIED RECOVERY RESIDENCES;" PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Highland Beach's application of its land development regulations and related rules, policies, and practices is governed by ever evolving case law addressing the rights of applicants and affected parties under the Fair Housing Act, the Americans with Disabilities Act and other applicable state and federal regulations; and

WHEREAS, persons undergoing substance abuse treatment are considered disabled within the meaning of both the Fair Housing Act and the Americans with Disabilities Act, and the Town Commission wishes to assure that its land development regulations treat such persons in a non-discriminatory manner while maintaining the Town's fundamental land use authority; and

WHEREAS, pursuant to Section 397.487(1), Florida Statutes, the Florida Legislature determined that: (1) persons suffering from addiction have a higher success rate of achieving long-lasting sobriety when given the opportunity to build a stronger foundation by living in a recovery residence while undergoing or after completing treatment from a licensed service provider; and (2) the state and its subdivisions, including municipalities, have a legitimate interest in protecting persons suffering from addiction, who represent a vulnerable consumer population in need of adequate housing; and

WHEREAS, the Florida Legislature has further determined that persons suffering from addiction who live in recovery residences can be better protected by programs providing for both the certification of recovery residences and the certification of recovery residence administrators to ensure that such administrators adhere to certain core competencies; and

1 WHEREAS, Section 397.487(15), Florida Statutes, requires the governing body of each
2 municipality to adopt an Ordinance establishing procedures for the review and approval of certified
3 recovery residences within its jurisdiction, including a process for requesting reasonable
4 accommodation from any land use regulations that serve to prohibit the establishment of a certified
5 recovery residence; and

6 WHEREAS, the Town Commission determines that the certification of recovery
7 residences and the management and supervision of such residences by a certified recovery
8 residence administrator is necessary and appropriate to further the health, safety, and general
9 welfare of the residents of recovery residences and the general public; and

10 WHEREAS, the Town's Planning Board has conducted a public hearing on this Ordinance
11 and provided its recommendation to the Town Commission; and

12 WHEREAS, the Town Commission has determined that the adoption of this Ordinance is
13 in the best interests of the health, safety and welfare of the residents of the Town of Highland
14 Beach.

15 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE
16 TOWN OF HIGHLAND BEACH, FLORIDA as follows:

17 **Section 1.** The foregoing "Whereas" clauses are hereby ratified as true and confirmed and
18 are incorporated herein.

19 **Section 2.** The Town Commission hereby amends Article VII, "Administration and
20 Enforcement," of Chapter 30, "Zoning Code," of the Town Code of Ordinances by adopting a new
21 Section 30-124 to provide as follows:

22 **Sec. 30-124. Reasonable accommodation procedure for certified recovery**
23 **residences.**
24

25 (a) *Purpose.* The purpose of this section is to provide procedures for
26 the review and approval of certified recovery residences within the town as required
27 by Section 397.487(15), Florida Statutes.

28 (b) *Definitions.* When used in this section, the following terms shall
29 have the meanings ascribed to them:

30 *Certified recovery residence* means a recovery residence that holds a valid
31 certificate of compliance pursuant to Section 397.487, Florida Statutes, and is
32 actively managed by a certified recovery residence administrator.

1 *Certified recovery residence administrator* means a recovery resident
2 administrator who holds a valid certificate of compliance pursuant to Section
3 397.487, Florida Statutes.

4 *Disabled individual or a disabled person* means an individual that
5 qualifies as disabled and/or handicapped under the Fair Housing Act, the
6 Americans with Disabilities Act or other state or federal regulation and who: (i)
7 has a physical or mental impairment which substantially limits one or major life
8 activities; (ii) has a record of having such impairment; and (iii) is regarded as
9 having such impairment.

10 *Licensed service provider* means a public agency under Chapter 397,
11 Florida Statutes, a private for-profit or not-for-profit agency under Chapter 397,
12 Florida Statutes, a physician or any other private practitioner licensed under this
13 chapter, or a hospital that offers substance abuse services through one or more
14 licensed service components.

15 *Qualifying entity* shall mean, a licensed service provider in the State of
16 Florida as defined by Section 397.311(25), Florida Statutes, or an entity who is in
17 the business of providing recovery residences for individuals disabled due to
18 substance abuse.

19 *Recovery residence* means a residential dwelling unit or other form of
20 group housing that is offered or advertised through any means by any person or
21 entity as a residence that provides a peer-supported, alcohol-free, and drug-free
22 living environment.

23 *Recovery residence administrator* means the person responsible for the
24 overall management of the recovery residence, including but not limited to, the
25 supervision of residents and staff employed by, or volunteering for, the residence.

26 *Service component or component* means a discrete operational entity
27 within a service provider which is subject to licensing as defined by the rules
28 adopted to implement Chapter 397, Florida Statutes.

29 *Substance abuse* means the misuse of, or dependence on alcohol, illicit
30 drugs, or prescription medications.

31 (c) *Application procedure.* Any applicant, whether a disabled
32 individual or a qualifying entity, who wishes to operate a certified recovery

1 residence within the town may apply for a reasonable accommodation with
2 respect to the town's land development regulations, zoning laws, codes, rules,
3 practices, and/or procedures by submitting an application for a reasonable
4 accommodation pursuant this section.

5 (1) All qualifying entities shall submit, as part of its application for
6 a reasonable accommodation, proof of any licensable service
7 component the qualifying entity holds pursuant to Chapter 397,
8 Florida Statutes.

9 (2) All qualifying entities or other providers of housing to persons in
10 recovery shall submit such information as the town may deem
11 sufficient to demonstrate that the entity is a certified recovery
12 residence under state law.

13 (3) All qualifying entities and other providers of housing to persons in
14 recovery shall submit such information as the town may deem
15 necessary to demonstrate that the administrator responsible for the
16 overall management and the supervision of residents and staff is a
17 certified recovery residence administrator under state law.

18 (4) Applicants making application for a reasonable accommodation,
19 whether individually or through a qualifying entity, shall submit
20 proof that each individual is seeking a reasonable accommodation
21 due to the individual's handicap or disability.

22 (5) An applicant for a reasonable accommodation under this section
23 shall apply using the form available from the town clerk's office.
24 In addition to the information required above, the application shall,
25 at a minimum:

- 26 a. Provide the name and contact information of the applicant
27 or the applicant's authorized representative.
- 28 b. Identify the property address and the parcel identification
29 number; and
- 30 c. Describe the accommodation requested and the specific
31 regulation or policy from which relief is sought.

1 (6) The town shall display a notice on the town's website advising the
2 public that an application for reasonable accommodation as
3 provided in this section has been submitted to the town.

4 (7) A disabled individual, qualifying entity, or other provider of
5 housing to persons in recovery who has applied for a reasonable
6 accommodation may be represented at all stages of the reasonable
7 accommodation proceedings by a person designated by the
8 disabled individual as their authorized agent. Any authorized agent
9 representing an individual, or, if applicable, a qualifying entity or
10 housing provider, shall submit a written authorization designating
11 the individual as the agent authorized to legally bind the applicant
12 to the representations in the application, or any conditions agreed
13 to or imposed as part of the order of the special magistrate.

14 (8) No application fee shall be imposed by the town in connection with
15 an application for a reasonable accommodation.

16 (d) *Completed applications.* All applications for a reasonable
17 accommodation shall be date-stamped by the town clerk and reviewed by the town
18 building official or designee. If additional information is required, the town
19 building official or designee shall notify the applicant within thirty (30) days of
20 receipt of the application and allow the applicant at least thirty (30) days to
21 respond.

22 (e) *Special magistrate process.*

23 (1) All completed applications shall be considered by a special
24 magistrate appointed by the town commission. The special
25 magistrate shall be:

26 a. a retired judge who has served in either the circuit court or a
27 higher Florida court or as a federal district judge or circuit
28 federal judge; or

29 b. a practicing member of the Florida Bar with at least five (5)
30 years of experience in the field of local government or land
31 use law.

1 The code enforcement special magistrate may serve as the special
2 magistrate pursuant to this section.

3 (2) The town shall be responsible for mailing via certified mail a notice
4 containing the date and time of the special magistrate's hearing to
5 consider the application. All applications shall be considered by
6 the special magistrate within sixty (60) days after receipt of a
7 completed application or the application shall be deemed approved
8 unless the town and the applicant agree in writing to a reasonable
9 extension of time.

10 (3) Upon consideration of the application and at the conclusion of the
11 hearing, the special magistrate may:

- 12 a. grant the reasonable accommodation application as
13 requested in whole or in part, with or without conditions;
14 or
15 b. deny the reasonable accommodation application, stating
16 with specificity the objective, evidence-based reasons for
17 denial and identifying deficiencies or actions necessary for
18 reconsideration, if any.

19 (4) All decisions of the special magistrate shall be in writing. The
20 written decision of the special magistrate shall constitute a final
21 order and shall be sent to the applicant by certified mail, return
22 receipt requested, at the address specified by the applicant on the
23 application form. If denied, the applicant may appeal the final
24 order by petition for writ of certiorari within thirty (30) days of the
25 date it is rendered.

26 (f) *Revocation of approval.* Any reasonable accommodation granted
27 pursuant to this section shall be revoked if:

- 28 (1) the applicant violates any conditions of approval; or
29 (2) the applicant's required certifications lapse or are revoked and not
30 reinstated within one hundred and eighty (180) days.

31 **Section 3.** The provisions of this Ordinance shall become and be made a part of the
32 Code of the Town of Highland beach, Florida.

Section 4. If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of the Ordinance.

Section 5. All ordinances or parts of ordinances and resolutions or parts of resolutions of the Town of Highland beach, Florida, which are in conflict with this Ordinance, are hereby repealed to the extent of such conflict.

Section 6. This Ordinance shall be effective immediately upon adoption.
The forgoing Ordinance, on first reading, was moved by Commissioner _____, seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

Mayor Natasha Moore	_____
Vice Mayor David Stern	_____
Commissioner Judith Goldberg	_____
Commissioner Don Peters	_____
Commissioner Jason Chudnofsky	_____

PASSED on first reading at the Regular Commission meeting held on the ____ day of _____, 2025.

The forgoing Ordinance, on second reading, was moved by Commissioner _____, seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

Mayor Natasha Moore	_____
Vice Mayor David Stern	_____
Commissioner Judith Goldberg	_____
Commissioner Don Peters	_____
Commissioner Jason Chudnofsky	_____

PASSED AND ADOPTED on second and final reading at the Regular Commission meeting held on the ____ day of _____, 2025.

ATTEST: _____
Natasha Moore, Mayor

REVIEWED FOR LEGAL SUFFICIENCY

Lanelda Gaskins, MMC
Town Clerk

Leonard G. Rubin, Town Attorney
Town of Highland Beach