



TOWN OF HIGHLAND BEACH AGENDA MEMORANDUM

MEETING TYPE: Town Commission

MEETING DATE February 3, 2026

SUBMITTED BY: Leonard G. Rubin, Town Attorney

SUBJECT: Ordinance Providing Reasonable Accommodation Procedure for Certified Recovery Residences (**Second Reading**)

INTRODUCTION:

During its last session, the Florida Legislature amended Section 397.487, Florida Statutes to require the governing body of each municipality to adopt an ordinance establishing procedures for the review and approval of certified recovery residences in its jurisdiction, including a process for requesting reasonable accommodation. The statute also provides specific application requirements and timelines for inclusion in such an ordinance.

The proposed Ordinance satisfies this new statutory requirement and was introduced to the Town Commission at its November 4, 2025 meeting. Because the Ordinance amends the Town's Zoning Code, the Planning Board reviewed the proposed Ordinance at a public hearing held on December 11, 2025, and unanimously recommended approval as submitted.

SUMMARY:

By way of background, the Town's enforcement and application of its land development regulations is subject to a number of federal and state legislative acts, including, but not limited, the Americans with Disabilities Act (ADA) and the Fair Housing Act (FHA). Persons undergoing substance abuse treatment are considered disabled under both the ADA and FHA. Such persons often reside in recovery residences which may or may not be affiliated with a licensed substance abuse treatment program. These residences are intended to allow disabled persons to undergo recovery in an integrated, community-based setting.

Consistent with applicable case law interpreting these acts and their legislative history, the Town must provide a procedure whereby disabled individuals and qualifying entities serving disabled persons may request a reasonable accommodation from the Town's land development regulations to resolve possible unintended violations of the law, thereby exhausting their administrative remedies. The State of Florida has established procedures for the certification of recovery residences, as well as the certification of the persons who manage the residence and supervise the residents and staff.

The attached Ordinance provides procedures for processing reasonable accommodation requests by entities wishing to establish a certified recovery residence in the Town.

- A qualifying entity must provide proof of any licensable service component the entity holds pursuant to Chapter 397, Florida Statutes.
- All qualifying entities or other providers of housing to persons in recovery must provide proof that they are a certified recovery residence and the person responsible for overseeing the management of the residence is a certified recovery residence administrator.
- The applicant, whether an individual, qualifying entity or housing provider, must provide proof that a reasonable accommodation is sought because of a disability and that the requested accommodation is reasonable and necessary to afford the disabled person equal opportunity to use and enjoy housing.
- The applicant shall have the burden of establishing that the individuals on whose behalf the application is filed are disabled and protected under applicable laws, including the FHA and ADA.

All applications for reasonable accommodation shall be considered by a special magistrate appointed by the Town Commission within sixty (60) days after receipt of a completed application or the application shall be deemed approved. The magistrate shall be a retired judge or practicing attorney with at least five (5) years of experience in the field of local government land use, and the code enforcement special magistrate may service in this capacity. The magistrate may grant the application in whole or in part, with or without conditions, or deny the application, stating with specificity the objective, evidence-based reasons for denial. The magistrate's decision shall constitute a final order and may only be appealed to the circuit court. Finally, any reasonable accommodation may be revoked if the applicant violates any condition of approval or the applicant's required certifications lapse or are revoked and not reinstated within one hundred and eighty (180) days.

At its January 6, 2026 meeting, the Town Commission approved the Ordinance on first reading with the condition that the Ordinance be modified to expressly state that no actual treatment take place at a certified recovery residence. To that end, the following language has been added to Section 30-124(a) of the proposed Ordinance:

Certified recovery residences, as defined below, shall be utilized solely for housing, peer support, and life skills training and shall not, under any circumstances, be utilized for clinical substance abuse treatment of any type or level of care, including, but not limited, detoxification, inpatient residential treatment, partial hospitalization, or outpatient treatment.

FISCAL IMPACT:

Staff costs for processing the applications and cost of special magistrate to consider reasonable accommodation applications (when applicable).

ATTACHMENTS:

Ordinance No. 2026-001

RECOMMENDATION:

Staff recommends Town Commission consideration and approval on second and final reading of the attached Ordinance providing a Reasonable Accommodation Procedure for Certified Recovery Residences as required by state statute.