



TOWN OF HIGHLAND BEACH

ORDINANCE NO. 2026-001

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

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

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

5 WHEREAS, the Town’s Planning Board has conducted a public hearing on this Ordinance
6 and provided its recommendation to the Town Commission; and

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

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

11 **Section 1.** The foregoing “Whereas” clauses are hereby ratified as true and confirmed and are
12 incorporated herein.

13 **Section 2.** The Town Commission hereby amends Article VII, “Administration and
14 Enforcement,” of Chapter 30, “Zoning Code,” of the Town Code of Ordinances by adopting a new
15 Section 30-124 to provide as follows:

16 **Sec. 30-124. Reasonable accommodation procedure for certified recovery**
17 **residences.**

18
19 (a) *Purpose.* The purpose of this section is to provide procedures for the
20 review and approval of certified recovery residences within the town as required by
21 Section 397.487(15), Florida Statutes. **Certified recovery residences, as defined**
22 **below, shall be utilized solely for housing, peer support, and life skills training and**
23 **shall not, under any circumstances, be utilized for clinical substance abuse treatment**
24 **of any type or level of care, including, but not limited to, detoxification, inpatient**
25 **residential treatment, partial hospitalization, or outpatient treatment.**

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

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

31 *Certified recovery residence administrator* means a recovery resident
32 administrator who holds a valid certificate of compliance pursuant to Section
33 397.487, Florida Statutes.

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

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

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

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

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

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

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

27 (c) *Application procedure.* Any applicant, whether a disabled individual
28 or a qualifying entity, who wishes to operate a certified recovery residence within
29 the town may apply for a reasonable accommodation with respect to the town's land
30 development regulations, zoning laws, codes, rules, practices, and/or procedures by
31 submitting an application for a reasonable accommodation pursuant this section.

32 (1) All qualifying entities shall submit, as part of their application for
33 a reasonable accommodation, proof of any licensable service

1 component the qualifying entity holds pursuant to Chapter 397,
2 Florida Statutes.

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

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

12 (4) Applicants making application for a reasonable accommodation,
13 whether individually or through a qualifying entity, shall submit proof
14 that each individual is seeking a reasonable accommodation due to the
15 individual's handicap or disability and that the requested
16 accommodation is reasonable and necessary to afford the handicapped
17 or disabled person equal opportunity to use and enjoy housing.

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

22 a. Provide the name and contact information of the applicant or
23 the applicant's authorized representative.

24 b. Identify the property address and the parcel identification
25 number; and

26 c. Describe the accommodation requested and the specific
27 regulation or policy from which relief is sought.

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

31 (7) A disabled individual, qualifying entity, or other provider of housing
32 to persons in recovery who has applied for a reasonable
33 accommodation may be represented at all stages of the reasonable

1 accommodation proceedings by a person designated by the disabled
2 individual as their authorized agent. Any authorized agent
3 representing an individual, or, if applicable, a qualifying entity or
4 housing provider, shall submit a written authorization designating the
5 individual as the agent authorized to legally bind the applicant to the
6 representations in the application, or any conditions agreed to or
7 imposed as part of the order of the special magistrate.

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

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

15 (e) *Special magistrate process.*

- 16 (1) All completed applications shall be considered by a special magistrate
17 appointed by the town commission. The special magistrate shall be:
- 18 a. a retired judge who has served in either the circuit court or a
19 higher Florida court or as a federal district judge or circuit
20 federal judge; or
 - 21 b. a practicing member of the Florida Bar with at least five (5)
22 years of experience in the field of local government or land use
23 law.

24 The code enforcement special magistrate may serve as the special
25 magistrate pursuant to this section.

26 (2) The town shall be responsible for mailing via certified mail a notice
27 containing the date and time of the special magistrate's hearing to
28 consider the application. All applications shall be considered by the
29 special magistrate within sixty (60) days after receipt of a completed
30 application or the application shall be deemed approved unless the
31 town and the applicant agree in writing to a reasonable extension of
32 time.

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

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

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

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

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

Section 3. The provisions of this Ordinance shall become and be made a part of the 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 Goldberg, seconded by Commissioner Peters, and upon being put to a vote, the vote was as follows:

VOTES:	YES	NO
Mayor Natasha Moore	X	
Vice Mayor David Stern	X	
Commissioner Donald Peters	X	
Commissioner Judith M. Goldberg	X	

Commissioner Jason Chudnofsky X

PASSED on first reading at the Regular Commission meeting held on the 6th day of January, 2026.

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:

VOTES: YES NO

- Mayor Natasha Moore
- Vice Mayor David Stern
- Commissioner Donald Peters
- Commissioner Judith M. Goldberg
- Commissioner Jason Chudnofsky

PASSED AND ADOPTED on second and final reading at the Regular Commission meeting held on the 3rd day of February, 2026.

Natasha Moore, Mayor

ATTEST:

REVIEWED FOR LEGAL SUFFICIENCY

Lanelda Gaskins, MMC
Town Clerk

Leonard G. Rubin, Town Attorney
Town of Highland Beach