

1
2 **TOWN OF HIGHLAND BEACH**

3
4 **ORDINANCE NO. _____**

5
6 **AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF**
7 **HIGHLAND BEACH, FLORIDA, AMENDING ARTICLE VII,**
8 **“ADMINISTRATION AND ENFORCEMENT,” OF CHAPTER 30, “ZONING**
9 **CODE,” OF THE TOWN CODE OF ORDINANCES BY ADOPTING A NEW**
10 **SECTION 30-124, “REASONABLE ACCOMMODATION PROCEDURE FOR**
11 **CERTIFIED RECOVERY RESIDENCES;” PROVIDING FOR**
12 **CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING**
13 **FOR AN EFFECTIVE DATE.**
14

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

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

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

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

34 WHEREAS, Section 397.487(15), Florida Statutes, requires the governing body of each
35 municipality to adopt an Ordinance establishing procedures for the review and approval of certified
36 recovery residences within its jurisdiction, including a process for requesting reasonable
37 accommodation from any land use regulations that serve to prohibit the establishment of a certified
38 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.

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

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

27 *Certified recovery residence administrator* means a recovery resident
28 administrator who holds a valid certificate of compliance pursuant to Section
29 397.487, Florida Statutes.

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

1 *Licensed service provider* means a public agency under Chapter 397, Florida
2 Statutes, a private for-profit or not-for-profit agency under Chapter 397, Florida
3 Statutes, a physician or any other private practitioner licensed under this chapter, or
4 a hospital that offers substance abuse services through one or more licensed service
5 components.

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

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

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

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

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

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

27 (1) All qualifying entities shall submit, as part of their application for
28 a reasonable accommodation, proof of any licensable service
29 component the qualifying entity holds pursuant to Chapter 397,
30 Florida Statutes.

31 (2) All qualifying entities or other providers of housing to persons in
32 recovery shall submit such information as the town may deem

sufficient to demonstrate that the entity is a certified recovery residence under state law.

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

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

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

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

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

(7) A disabled individual, qualifying entity, or other provider of housing to persons in recovery who has applied for a reasonable accommodation may be represented at all stages of the reasonable accommodation proceedings by a person designated by the disabled individual as their authorized agent. Any authorized agent representing an individual, or, if applicable, a qualifying entity or housing provider, shall submit a written authorization designating the

1 individual as the agent authorized to legally bind the applicant to the
2 representations in the application, or any conditions agreed to or
3 imposed as part of the order of the special magistrate.

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

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

- 11 (e) *Special magistrate process.*

- 12 (1) All completed applications shall be considered by a special magistrate
13 appointed by the town commission. The special magistrate shall be:

- 14 a. a retired judge who has served in either the circuit court or a
15 higher Florida court or as a federal district judge or circuit
16 federal judge; or
17 b. a practicing member of the Florida Bar with at least five (5)
18 years of experience in the field of local government or land use
19 law.

20 The code enforcement special magistrate may serve as the special
21 magistrate pursuant to this section.

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

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

- 31 a. grant the reasonable accommodation application as requested
32 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 _____, 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.

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

3
4 Mayor Natasha Moore _____
5 Vice Mayor David Stern _____
6 Commissioner Judith Goldberg _____
7 Commissioner Don Peters _____
8 Commissioner Jason Chudnofsky _____
9

10 PASSED AND ADOPTED on second and final reading at the Regular Commission meeting held on the
11 ____ day of _____, 2025.
12
13
14

15 _____
Natasha Moore, Mayor

16 ATTEST:

17 **REVIEWED FOR LEGAL SUFFICIENCY**

18 _____
19 Lanelda Gaskins, MMC
20 Town Clerk
21
22
23

Leonard G. Rubin, Town Attorney
Town of Highland Beach