

ORDINANCE NO. 2026 - __

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, SETTING FORTH AMENDMENTS NECESSARY TO COMPLY WITH SECTION 397.487(15), FLORIDA STATUTES, AMENDING CHAPTER 62 OF THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA, SPECIFICALLY REVISING ARTICLE II – ADMINISTRATION AND ENFORCEMENT, DIVISION 6 – APPEALS; REVISING SEC. 62-305 – REASONABLE ACCOMMODATION STANDARDS AND PROCEDURES TO CLARIFY APPLICABILITY TO REASONABLE ACCOMMODATIONS IN GENERAL; CREATING SEC. 62-305.1 ENTITLED CERTIFIED RECOVERY RESIDENCES TO PROVIDE FOR DEFINITIONS, STANDARDS AND PROCEDURES FOR REASONABLE ACCOMMODATIONS FOR CERTIFIED RECOVERY RESIDENCES IN SPECIFIC; REVISING ARTICLE VI – ZONING REGULATIONS, DIVISION 1 – GENERALLY; REVISING SEC. 62-1102 – DEFINITIONS AND RULES OF CONSTRUCTION TO DISTINGUISH CERTIFIED RECOVERY RESIDENCES FROM TREATMENT AND RECOVERY FACILITIES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE BREVARD COUNTY CODE OF ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 397.487, Florida Statutes, was amended effective July 1, 2025, pursuant to Chapter 2025-182, Laws of Florida, which added subsection (15); and

WHEREAS, Section 397.487(15), Florida Statutes, requires, by January 1, 2026, the governing body of each county or municipality to adopt an ordinance to establish procedures for the review and approval of certified recovery residences; and

WHEREAS, Section 397.487(15), Florida Statutes, requires that such ordinance include 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), Florida Statutes, specifies criteria for the ordinance; and

WHEREAS, Section 397.487(15), Florida Statutes, provides that the ordinance may establish additional requirements for the review and approval of reasonable accommodation requests, requiring that such additional requirements be consistent with federal law and not conflict with the act; and

WHEREAS, Section 397.487(15), Florida Statutes, prohibits the ordinance from requiring public hearings beyond the minimum required by law; and

WHEREAS, Section 397.487(15), Florida Statutes, provides that the ordinance may include provisions for revocation of a granted accommodation for cause, if the accommodation is not reinstated within a specified timeframe; and

WHEREAS, on January 14, 2003, the Brevard County Board of County Commissioners approved Ordinance No. 2003-03, creating Section 62-305, Code of Ordinances of Brevard County, to provide for procedures and standards for the review of reasonable accommodations requests generally; and

WHEREAS, in order for the County to comply with the requirements of Section 397.487(15), Florida Statutes, it is necessary for the County to create new code and amend existing code to distinguish between existing general reasonable accommodations request procedures and those pertaining to certified recovery residents; and

WHEREAS, on June 15, 2026, the Local Planning Agency reviewed the proposed amendments to the Brevard County Code and recommended their adoption by the Brevard County Board of County Commissioners; and

WHEREAS, on July 9, 2026, the Brevard County Board of County Commissioners held a duly noticed public hearing and considered the recommendations of the Local Planning Agency, and approved the proposed amendments on first reading; and

WHEREAS, on _____, 2026, the Brevard County Board of County Commissioners held a duly noticed public hearing and approved the proposed amendments for adoption on second reading.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Underline indicates additions.

~~Strikethrough indicates deletions.~~

SECTION 1. Recitals. The foregoing recitals are deemed true and correct and are hereby adopted and incorporated herein by this reference. All provisions of Chapter 62, Code of Ordinances of Brevard County, not amended herein shall remain in full force and effect.

SECTION 2. Section 62-305 - *Reasonable accommodation standards and procedures*, is hereby retitled to read *Reasonable accommodation standards and procedures* –generally, and amended to read as follows:

Reasonable accommodation. It is the policy of the County to provide fair access to housing for persons with disabilities and all other persons protected by the Federal Fair Housing Act, including providing reasonable accommodation in the application of the zoning regulations governing residential uses pursuant to federal and state law. The provisions and requirements of this section shall apply to requests for reasonable accommodation generally, except that reasonable accommodation requests pertaining to a certified recovery residence shall follow the provisions and requirements of section 62-305.1 certified recovery residences.

(1) The persons requesting relief must demonstrate that the requested accommodation is appropriate and that, without the accommodation, they would be denied the opportunity to enjoy housing of their choice in the community of their choice. Once this standard is met, the burden shifts to the County to determine whether the requested accommodation is unreasonable.

(2) In making a determination as to whether a requested accommodation is reasonable, the following standards shall be applied:

- a. Whether the requested accommodation imposes an undue financial or administrative burden on County services, such as but not limited to, law enforcement, utilities, public works, traffic safety, public safety and public transportation; or
- b. Whether the requested accommodation requires a fundamental alteration of the ordinance, zoning regulations, comprehensive plan and the neighborhood; or
- c. Whether the requested accommodation undermines legitimate purposes and effects of existing zoning.

(3) The following factors shall be weighed in considering reasonable accommodation:

- a. Special needs created by the disability;
- b. Potential benefit that can be accomplished by the requested modification, which may include:
 - 1. Opportunity to enjoy support, security, location, services, proximity to work or friends provided in a group home in the community of choice;

2. Opportunity to plan a residential community with special amenities;
- c. Potential impact on surrounding uses;
- d. Physical attributes of the property and structures thereon;
- e. Choice of alternative accommodations which may provide an equivalent level of benefit; and
- f. Whether, in the case of a determination involving a single family dwelling, the household would be considered a single housekeeping unit if it were not using special services that are required because of the disabilities of the residents.
- g. Other considerations when evaluating requests for reasonable accommodation:
 1. Character of the neighborhood and zoning classification (residential or non-residential);
 2. Residential character of the house (consistency of interior and exterior with single-family usage); and
 3. Parking needs of residents.
- (4) Procedures for evaluating reasonable accommodation.
 - a. Requests for reasonable accommodation shall follow the application and public hearing procedure set forth in Article II, Division 6 of this chapter.
 - b. In the event that a request for reasonable accommodation is not decided within 60 days of the date of application, the request shall be automatically granted. This time period may be extended upon agreement of both parties.

SECTION 3. Section 62-305.1 is hereby created, to be entitled *Certified recovery residences* and to read as follows:

- (1) Purpose. The purpose of this section is to establish procedures for the receipt, review and approval of requests for reasonable accommodation to the Brevard County land development regulations that serve to prohibit establishment of a certified recovery residence pursuant to § 397.487, F.S. Any disabled person requiring a certified recovery residence and/or provider of services to disabled persons

requiring a certified recovery residence, may request reasonable accommodation for the establishment of a certified recovery residence pursuant to the procedures set forth herein.

(2) **Applicability.** This section shall apply exclusively to the reasonable accommodation request process for disabled persons seeking a certified recovery residence to be located or operated within the jurisdiction of unincorporated Brevard County. Reasonable accommodation for disabled persons unrelated to a certified recovery residence shall be subject to the standards and procedures of section 62-305. Nothing in this section shall prohibit ordinary residential use by unrelated persons in compliance with applicable occupancy limits.

(3) **Definitions.** The following terms as used throughout this section shall be defined as follows:

Certified recovery residence. A recovery residence that holds a valid certificate of compliance and is actively managed by a certified recovery residence administrator, as defined in § 397.311, F.S.

Disabled person. An individual that qualifies as disabled under the Federal Fair Housing Amendments Act (42 U.S.C. sections 3601, et seq.) (“FHA”) and/or Title II of the Americans with Disabilities Act (42 U.S.C. sections 12131, et seq.) (“ADA”).

Reasonable accommodation. A specific modification or exception to the Brevard County land development regulations that represents the minimum modification or exception necessary to afford a disabled person equal opportunity to use and enjoy housing of their choice in the community of their choice. A fundamental alteration of the Brevard County land development regulations or comprehensive plan shall not be considered reasonable accommodation.

(4) **Exceptions.** The application of this section shall not supersede the following:

- a. Any current or future condominium declaration adopted pursuant to ch. 718, F.S.;
- b. Any cooperative document adopted pursuant to ch. 719, F.S.; or
- c. Any declarations or declaration of covenants adopted pursuant to ch. 720, F.S.

(5) **Application requirements.**

- a. An applicant (a disabled person, or a provider of services to disabled persons, requesting reasonable accommodation, collectively referred to as

“Applicant”) must complete a signed certified recovery residence application and submit to the County zoning official or designee.

b. An Applicant may apply for reasonable accommodation on their own behalf or may be represented at all stages of the process by an attorney, legally appointed guardian or other person designated by the Applicant as a power of attorney.

c. Required components of the certified recovery residence application shall include:

1. Name and contact information of the Applicant or the Applicant’s authorized representative. If the Applicant is not the owner of the property, then the name and contact information of the property owner and a signed owner’s authorization form shall also be required.

2. Property address and parcel identification number of the location at which the reasonable accommodation is being requested.

3. A verification of disability status form executed by someone with personal knowledge of the Applicant’s disability, such as a medical or social services professional.

4. A description of the reasonable accommodation requested, identifying specifically the ordinances, rules, regulations or policies from which the Applicant is requesting reasonable accommodation and why the requested accommodation is needed. The Applicant shall demonstrate that the requested reasonable accommodation is therapeutically necessary and constitutes the minimum necessary accommodation to alleviate the effect of the disability.

5. Proof of current certification under § 397.487, F.S.

6. Proof of certification, if any, by the Florida Association of Recovery Residences, the National Alliance for Recovery Residences, or other similar nationally recognized accrediting agency for recovery residences.

7. Name and current valid certificate of compliance for the certified recovery residence administrator.

8. Contact information for the operator.

9. A notarized certification signed by the Applicant stating: “I CERTIFY UNDER PENALTY OF PERJURY THAT ANY AND ALL RESIDENTS PLACED UNDER THE REQUESTED REASONABLE ACCOMMODATION ARE NOT CURRENT ILLEGAL USERS OF A CONTROLLED SUBSTANCE, AND THAT IF ANY RESIDENT FAILS, AT ANY TIME, TO MEET THIS REQUIREMENT THEY WILL BE REMOVED FROM THE PROPERTY.”

10. A notarized 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.”

11. Any additional information or documents the Applicant feels is necessary to supplement the request for reasonable accommodation.

12. Other information as may be deemed necessary by the County to evaluate the plan for compliance with the Brevard County land development regulations.

(6) Procedural and notification requirements.

a. The County zoning official or designee shall date-stamp the application upon receipt and notify the applicant, in writing, within 30 days if additional information is required. Failure of the Applicant to provide a response to such notification within 30 days shall result in the application being denied, unless the applicant requests an extension of time in writing.

b. The County zoning official or designee shall evaluate the application according to the following objective criteria:

1. Has the Applicant established that they are protected under the FHA and/or ADA by demonstrating that they or those being provided recovery services are disabled, as defined in the FHA and/or ADA? To do this, the following must be shown:

- i. A physical or mental impairment which substantially limits one (1) or more major life activities;
- ii. That they are regarded as having such impairment; and
- iii. A record of having such impairment.

2. Has the Applicant established that the requested reasonable accommodation is therapeutically necessary and constitutes the minimum accommodation necessary to achieve the stated therapeutic purpose?

3. Is the recovery residence certified and actively managed by a certified administrator? Reasonable accommodation shall not be granted to provide for a recovery residence that is not certified pursuant to § 397.487, F.S.

4. Does the requested accommodation impose any undue financial or administrative burden on the County?

5. Does the requested accommodation require a fundamental alteration to the County land development regulations or comprehensive plan? Examples of such fundamental alterations shall include, but not be limited to:

i. A requested increase in density beyond established comprehensive plan limits.

ii. A requested multifamily development on land zoned for exclusively single-family development.

c. When conducting the review, the County zoning official or designee may make a site visit to the property where the reasonable accommodation is being requested.

d. The County shall not impose spacing, occupancy or location restrictions that treat a certified recovery residence less favorably than other residential uses, except as expressly allowed under federal or state law.

e. The County shall not require public hearings beyond the minimum required by law to grant the requested accommodation.

f. If the County zoning official or designee finds that the requested accommodation will impose an undue financial or administrative burden on the County or will require a fundamental alteration to the Brevard County land development regulations or comprehensive plan, they may consider whether an alternative reasonable accommodation exists that would effectively meet the disability-related need. An alternative reasonable accommodation may constitute an approval of the requested accommodation with conditions.

g. Within 60 days of receipt of a complete application, the County zoning official or designee shall provide a written decision to:

1. Approve the application.
2. Approve the application, with conditions.
3. Deny the application stating with specificity the objective, evidence-based reasons for denial and identifying any deficiencies or actions necessary for reconsideration.

h. If the written decision is not issued within 60 days after receipt of the completed application, the reasonable accommodation request shall be deemed approved unless the parties agree in writing to a reasonable extension of time.

i. In the event that reasonable accommodation is granted, the Applicant shall continue to comply with any and all other applicable regulations in the County code of ordinances and land development regulations, including building and/or engineering permitting processes, and all other federal, state and local laws.

j. A granted reasonable accommodation shall be specific to the Applicant and shall not run with the subject property.

k. In the event the certified recovery residence's certification under § 397.487, F.S., is lapsed, suspended or revoked, the certified recovery residence must notify the County zoning official or designee within three (3) days of said lapse, suspension or revocation.

(7) Appeals. Appeals of an administrative decision to approve, approve with conditions or deny a request for reasonable accommodation for a certified recovery residence shall follow the application and public hearing procedure set forth in Article II, Division 6 of this chapter.

(8) Revocation. If a certified recovery residence loses its certification or fails to comply with any conditions of approval, the County may revoke its granted accommodation after written notice and opportunity to cure in accordance with § 379.487, F.S.

SECTION 4. Section 62-1102 – *Definitions and rules of construction*, is hereby amended specifically at the definition of *Treatment and recovery facility* to read as follows:

Treatment and recovery facility means a secure or nonsecure facility which provides residential rehabilitation services, including room and board, personal care and intensive supervision in casework with emphasis on treatment and counseling services. Such facility may include an outpatient component, and shall include but not be limited to psychiatric residential treatment programs, drug and alcoholic rehabilitation programs, group treatment centers, and group treatment centers for status offenders. Such facility shall be licensed by the state department of health and rehabilitative services as a treatment and recovery facility. If such facility is not licensed by the state department of health and rehabilitative services, it must be approved by the County division of health and social services. A certified recovery residence, as defined in sec. 62-305.1 and provided for under Article II, Division 6 of this chapter, shall not be considered a treatment and recovery facility.

SECTION 5. Conflicting Provisions. In the case of a direct conflict between any provisions of this ordinance and a portion or provision of any other appropriate federal, state or county law, rule, code, or regulation, the more restrictive shall apply.

SECTION 6. Severability. If any provisions of this ordinance or the application thereof to any person or circumstance is held to be invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 7. Inclusion in Code. It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made part of the Code of Ordinances of Brevard County, Florida; and that the sections of this ordinance may be renumbered or relettered and that the word “ordinance” may be changed to “section”, “article” or other such appropriate word or phrase in order to accomplish such intentions.

SECTION 8. Effective Date. A certified copy of this ordinance shall be filed with the office of the Secretary of State, State of Florida within ten (10) days of enactment. This Ordinance shall take effect upon adoption and filing, as required by law.

DONE AND ADOPTED in regular session, this ____ day of _____, 2026.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

Rachel M. Sadoff, Clerk

By: _____
Thad Altman, Chair

As approved by the Board on _____, 2026.