

ORDINANCE NO. 2025-\_\_

AN ORDINANCE OF ORANGE COUNTY, FLORIDA  
PERTAINING TO THE ESTABLISHMENT OF CERTIFIED  
RECOVERY RESIDENCES AND PROCEDURES FOR  
REASONABLE ACCOMMODATION REQUESTS;  
PROVIDING A PROCESS TO REVIEW AND APPROVE  
REASONABLE ACCOMMODATION REQUESTS TO THE  
COUNTY'S ZONING CODE FOR PERSONS WITH  
DISABILITIES AS PROVIDED BY THE FAIR HOUSING  
AMENDMENTS ACT, TITLE II OF THE AMERICANS  
WITH DISABILITIES ACT AND OTHER APPLICABLE  
STATE AND FEDERAL REGULATIONS; AMENDING  
CHAPTER 38 OF THE ORANGE COUNTY CODE  
("ZONING"); CREATING A NEW SECTION 38-1403  
("REASONABLE ACCOMMODATION PROCESS"); AND  
PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the purpose of this ordinance is to establish procedures for the review of reasonable accommodation requests from the County's land development ordinances, rules, policies and procedures, including for the establishment of certified recovery residences, for persons with disabilities as provided by the Fair Housing Amendments Act and the Americans with Disabilities Act and other applicable state and federal regulations;

**WHEREAS**, the County desires to provide a reasonable accommodation application procedure to ensure that people with disabilities enjoy equal access to housing opportunities while still preserving the overall intent and purpose of the County's Zoning Code;

**WHEREAS**, the Planning and Zoning Commission, sitting as the Local Planning Agency, has determined that this ordinance is consistent with and furthers the goals, objectives, and policies of the County's Comprehensive Plan;

**WHEREAS**, the Board finds that it is in the public's interest to amend Chapter 38 of the Orange County Code to establish procedures for processing reasonable accommodation requests.

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF  
ORANGE COUNTY:**

*Section 1. Creation of Section 38-1403 ("Reasonable accommodation process").* Section 38-1403, presently "Reserved," is created to read as follows:

**Sec. 38-1403. Reasonable accommodation process.**

(a) *Purpose, intent, and general provisions.*

- 42 (1) The purpose and intent of this Section is to establish a  
44 process where a person with a disability, as provided by  
46 the Federal Fair Housing Amendments Act (“FHA”) or  
48 Title II of the Americans with Disabilities Act  
50 (“ADA”), may request the County for a reasonable  
52 accommodation from the Zoning Code standards to  
54 allow the disabled person, as that term is defined and  
56 recognized by federal, State or local law, or by judicial  
58 interpretation, to legally use and enjoy a dwelling.  
60
- 62 (2) A reasonable accommodation process is necessary  
64 because in some instances certain standards in the  
66 Zoning Code, if strictly applied, would inhibit or  
68 prevent the use of a dwelling due to a person's disability.  
70 As such, the process outlined in this Section is  
72 necessary where a disabled individual or individuals, or  
74 a person, entity or group acting on behalf of a disabled  
76 individual or individuals (“Applicant”), requests a  
78 reasonable accommodation and seeks relief from one or  
80 more of such zoning standards in order to have an equal  
opportunity to legally use and enjoy a dwelling  
("Request for a Reasonable Accommodation").
- (3) An Applicant may submit a Request for a Reasonable  
Accommodation on his/her own behalf or may be  
represented at all stages of the application process by a  
person designated by the Applicant as their authorized  
agent, attorney, or representative.
- (4) Each Request for a Reasonable Accommodation must  
be considered on a case-by-case basis based on an  
individualized assessment because the nature and extent  
of a disability and the surrounding facts and issues will  
necessarily vary as applicable in each case.
- (5) The granting of a Request for a Reasonable  
Accommodation shall not be deemed to constitute a  
rezoning of property, a special exception approval, or  
an approval to allow any other uses that would  
otherwise require a rezoning, special exception,  
variance, or waiver pursuant to the County Code.

82 (b) *Application.*

84 (1) A Request for a Reasonable Accommodation may be  
86 made by completing a written application on a form  
prescribed by the Zoning Division.

88 (2) Such form shall instruct the Applicant regarding what  
information is required for the application to be deemed  
90 complete and sufficient. Such form shall, at a minimum,  
include sections for:

- 92 a. The name and contact information of the Applicant  
or the Applicant's authorized representative;
- 94 b. the property address and parcel identification  
number for the location where the accommodation  
is requested; and
- 96 c. a description of the accommodation requested and  
the specific regulation or policy from which the  
98 relief is sought.

100 (3) If Applicant is proposing to operate a residence that  
provides services or housing to disabled individuals,  
Applicant shall demonstrate that:

- 102 a. Applicant is licensed or certified by the State of  
Florida to operate the proposed residence;
- 104 b. For housing within a "recovery residence" as  
defined in Chapter 397, Fla. Stat., Applicant shall  
106 provide evidence of a certification or license from  
the Florida Association of Recovery Residences,  
108 National Alliance for Recovery Residences, or other  
nationally recognized accrediting agency or entity  
110 for recovery residences; or

112 If Applicant cannot provide one of the above-referenced  
licenses or certifications, Applicant may still meet the  
114 requirement of this paragraph by demonstrating that all  
of the following four (4) criteria are met:

- 116 a. The proposed residence will be operated in a  
manner effectively similar to that of a licensed or  
certified residence; and
- 118 b. Staff will be adequately trained in accordance with  
standards typically required by licensing or state  
120 certification for such residence; and

122 c. The residence will emulate a biological family and  
be operated to achieve normalization and  
community integration; and

124 d. The rules and practices governing how the residence  
operates will protect the residents from abuse,  
126 exploitation, fraud, theft, neglect, insufficient  
support, use of illegal drugs or alcohol, and misuse  
128 of prescription medications.

130 (4) Should the information provided by the Applicant to the  
County include medical information or records,  
132 including records indicating the medical condition,  
diagnosis, or medical history of the requesting  
134 individual, such individual may, at the time of  
submitting such medical information, request that the  
136 County, to the extent allowed by law, treat such medical  
information as confidential information of the  
138 requesting individual.

140 (c) *Application process.*

142 (1) Upon receipt of the Request for a Reasonable  
Accommodation application on the prescribed form,  
the Zoning Manager or authorized designee shall date-  
144 stamp the application.

146 (2) Within thirty calendar days after receipt, the Zoning  
Manager shall determine whether the application is  
complete and sufficient, and notify the Applicant in  
148 writing of the application's completeness and  
sufficiency. If it is determined that the application is  
incomplete or insufficient, the Zoning Manager's  
150 written notice shall identify what additional  
information is required. The Applicant shall have thirty  
152 calendar days from the date of the written notice to  
respond to the request for additional information. If the  
154 Applicant fails to provide the requested additional  
information within the thirty-day period, a notification  
156 shall be issued to the Applicant advising the Applicant  
that the application is considered withdrawn.  
158

160 (3) Once the application is deemed complete and sufficient  
by the Zoning Manager, a final written decision shall

162 be made within sixty days. If a final written decision is  
163 not issued within the sixty-day period after receipt of a  
164 complete and sufficient application, the request shall  
165 be deemed approved, unless the Applicant and County  
166 agree jointly in writing to a reasonable extension of  
time.

168 (d) *Zoning Manager's decision.* The Zoning Manager shall  
169 issue a final written decision on the application. The Zoning  
170 Manager's decision shall:

- 171 (1) Grant the reasonable accommodation request;
- 172 (2) Grant a portion of the request and deny the remaining  
173 portion;
- 174 (3) Grant the request or a portion of the request, subject to  
conditions; or
- (4) Deny the request.

176 A decision denying a Request for Reasonable  
177 Accommodation, or a conditional or partial approval, shall  
178 state with specificity the objective, evidence-based reasons  
179 for denial and identify any deficiencies or actions necessary  
180 for reconsideration.

182 Such final written decision shall be sent to the Applicant via  
183 certified mail, return receipt requested, to the address  
184 specified by the Applicant on the application form and shall  
give notice to the Applicant of the right to appeal.

186 (e) *Criteria.* The Applicant shall be required to establish that  
187 the requesting individual is disabled and protected under the  
188 FHA or ADA by demonstrating that the individual is  
189 disabled, as defined in the FHA or the ADA. Although the  
190 definition of disability may be subject to judicial  
191 interpretation, for purposes of this Section the Applicant  
192 must show:

- 193 (1) A physical or mental impairment which substantially  
194 limits one or more major life activities;
- (2) A record of having such impairment; or
- 196 (3) The individual is regarded as having such impairment.

198 In evaluating a Request for a Reasonable Accommodation,  
200 the Zoning Manager shall consider competent evidence  
relating to the following:

- 202 (1) Whether the individual claiming to be disabled meets  
the definition of a disabled person;
- 204 (2) Whether there is an identifiable relationship, and a  
rational nexus, between the requested accommodation  
and the disabled individual's needs;
- 206 (3) Whether a sufficient alternative to the request exists, if  
the request is determined to not be reasonable;
- 208 (4) Whether granting the request would change the  
essential nature of the Zoning Code as compared to a  
210 strict application of the Zoning Code to the  
circumstances of the request;
- 212 (5) Whether the request, if granted, would impose undue  
financial and administrative burdens on the County.

214 It shall also be the obligation of the Applicant to establish  
216 that granting the reasonable accommodation will not result  
in an over-concentration or clustering of similar uses that  
218 will fundamentally alter the residential character of the  
surrounding neighborhood.

220 The Zoning Manager is entitled to obtain information that is  
222 necessary to evaluate whether a requested reasonable  
accommodation may be necessary because of a disability. If  
224 an individual's disability is obvious, or otherwise known to  
the Zoning Manager, and if the need for the requested  
226 accommodation is also readily apparent or known, then the  
Zoning Manager may not request any additional information  
228 about the disability or the disability-related need for the  
accommodation. However, if the disability is known or  
230 readily apparent to the Zoning Manager, but the need for the  
accommodation is not readily apparent or known, the Zoning  
232 Manager may request only information that is necessary to  
evaluate the disability-related need for the accommodation.  
234 The Zoning Manager may not ordinarily inquire as to the  
nature and severity of a disability. However, the Zoning  
236 Manager may request reliable disability-related information  
that:

(1) is necessary to verify that the person meets the Fair Housing Amendments Act and Americans with Disability Act's definition of "disability,";

(2) describes the needed accommodation; and

(3) shows the relationship between the individual's disability and the need for the requested accommodation.

Depending on the individual's circumstances, information verifying that the individual meets the Act's definition of disability can usually be provided by the individual but also may come from a doctor or medical professional, a peer support group, a non-medical service agency, or a reliable third party who has direct knowledge about the individual's disability. Once the Zoning Manager has established that the individual meets the definition of a disabled person, he/she should seek only the information necessary to evaluate if the request is needed because of a disability.

(f) *Duration of reasonable accommodation; Revocation.*

(1) A Reasonable Accommodation shall be personal to the Applicant and shall not run with the land, and shall remain in place for only as long as:

- a. The Applicant's need for the accommodation exists or remains, or
- b. The Applicant resides at the dwelling.

(2) It shall be the responsibility of the property owner to remove or correct any nonconforming Zoning Code standard authorized by the grant of a Request for a Reasonable Accommodation once the need for the accommodation ends, and to do so within a reasonable period of time.

(3) Any reasonable accommodation received may be revoked by the County if the Applicant or the property upon which the accommodation is granted is found in violation of any provision or condition of the approval granting the reasonable accommodation.

(g) *Appeal.* A decision on a Request for a Reasonable Accommodation is appealable to the Board of Zoning Adjustment ("BZA") pursuant to the procedures identified

284 in Chapter 30. The BZA's review of the appeal shall be  
286 limited to a consideration of whether the criteria pertaining  
288 to a Request for a Reasonable Accommodation were  
290 properly and fairly considered and applied, taking into  
account all laws, ordinances, and judicial or legal precedent  
or guidance into consideration, and whether sufficient  
alternatives were evaluated.

- 292 (h) *No Fee*. No fees or costs may be imposed by the County for  
294 a Request for a Reasonable Accommodation or for an  
296 appeal of a decision on such a request. The County shall  
not be obligated to pay the Applicant's attorney's or other  
fees and costs in connection with the application or an  
appeal.

298 ***Section 2. Effective date.*** This ordinance shall take effect pursuant to general law.