

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA
ORDINANCE NO. _____**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY, FLORIDA, AMENDING CHAPTER 21, BUILDING AND HOUSING REGULATIONS, PART 2, PROPERTY MAINTENANCE CODE, ARTICLE 28, REASONABLE ACCOMMODATION PROCEDURES, GENERAL ORDINANCES, MARTIN COUNTY CODE, REGARDING CERTIFIED RECOVERY RESIDENCES; PROVIDING FOR CONFLICTING PROVISIONS; SEVERABILITY; APPLICABILITY; FILING WITH THE DEPARTMENT OF STATE; CODIFICATION; AND EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Martin County, Florida (Board) is authorized by Chapter 125, Florida Statutes, to adopt ordinances and resolutions necessary for the exercise of its powers; and

WHEREAS, in accordance with Section 397.487, Florida Statutes, revisions to Article 28, Reasonable Accommodation Procedures, will establish procedures for the review and approval of reasonable accommodation requests for properties defined as “Certified recovery residences” in Section 397.311, Florida Statutes; and

WHEREAS, the proposed amendments to Article 28, Reasonable Accommodation Procedures, General Ordinances, Martin County Code, were reviewed by the Board; and

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY, FLORIDA, THAT:

PART I. AMENDMENT OF ARTICLE 28, REASONABLE ACCOMMODATION PROCEDURES, GENERAL ORDINANCES, MARTIN COUNTY CODE:

General Ordinances Amendment, GEN 25-01, Certified Recovery Residences, is hereby adopted as follows: Text amendments to Article 28, Reasonable Accommodation Procedures, Martin County Code, as set forth in Exhibit A, attached hereto and incorporated by reference.

PART II. CONFLICTING PROVISIONS.

Special acts of the Florida Legislature applicable only to unincorporated areas of Martin County, County ordinances, County resolutions, or parts thereof, in conflict with this ordinance are hereby superseded by this ordinance to the extent of such conflict except for ordinances concerning either adoption or amendment of the Comprehensive Growth Management Plan.

PART III. SEVERABILITY.

If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative, or void by a court of competent jurisdiction, such holding shall not affect the remaining portions of this ordinance. If the ordinance or any provision thereof shall be held to be inapplicable to any person, property or circumstance by a court of competent jurisdiction, such holding shall not affect its applicability to any other person, property or circumstance.

PART IV. APPLICABILITY OF ORDINANCE.

This ordinance shall be applicable throughout the unincorporated area of Martin County.

PART V. FILING WITH DEPARTMENT OF STATE.

The Clerk shall be and is hereby directed forthwith to scan this ordinance in accordance with Rule 1B-26.003, Florida Administrative Code, and file same with the Florida Department of State via electronic transmission.

PART VI. CODIFICATION.

Provisions of this ordinance shall be incorporated into the Martin County Code, except that Parts II through VII shall not be codified. The word "ordinance" may be

changed to “article,” “section,” or other word, and the sections of this ordinance may be renumbered or re-lettered.

PART VII. EFFECTIVE DATE.

This ordinance shall take effect upon filing with the Office of Secretary of State.

DULY PASSED AND ADOPTED THIS ____ DAY OF _____ 2026.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA

CAROLYN TIMMANN, CLERK OF THE
CIRCUIT COURT AND COMPTROLLER

SARAH HEARD, CHAIR

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

ELYSSE A. ELDER,
COUNTY ATTORNEY

EXHIBIT A

CHAPTER 21 – BUILDING AND HOUSING REGULATIONS

PART 2 – PROPERTY MAINTENANCE CODE

ARTICLE 28 – REASONABLE ACCOMMODATION PROCEDURES

Section 21.271. Filing for reasonable accommodation.

Sec. 21.270. Purpose and applicability.

It shall hereby be the policy of Martin County to provide reasonable accommodation in the application of its ordinances, rules, policies, practices, procedures, and services for persons with disabilities as provided by the federal Fair Housing Amendments Act (42 U.S.C. 3601, et seq.) ("FHA") and/or the Americans with Disabilities Act (42 U.S.C. Section 12131, et seq.) ("ADA"). For purposes of this section, a "disabled" individual or person is an individual that qualifies as disabled and/or handicapped under the FHA and/or ADA.

Sec. 21.271. Filing for reasonable accommodation.

21.271.A. Applicability. Any person who is disabled or is a qualifying entity under the FHA and/or the ADA may request a reasonable accommodation with respect to Martin County's ordinances, rules, policies, practices, procedures and services as provided by the FHA and/or the ADA pursuant to the procedures set out in this section. Application and processing requirements for Certified Recovery Residences can be found in Section 21.279 below. All other reasonable accommodation requests shall follow the application and processing requirements described in Sections 21.271 through 21.278.

21.271.B. Application. A request by an applicant for reasonable accommodation under this section shall be made in writing by submitting a reasonable accommodation request form to the County Administrator or his/her designee. The reasonable accommodation form shall contain such questions and requests for information as are necessary for processing the reasonable accommodation request. The reasonable accommodation request form shall be publicly available on the Martin County website and made available at the Growth Management Department.

An applicant for reasonable accommodations must, at a minimum, provide the following information:

- (1) The name and contact information of the applicant and the applicant's authorized representative (if applicable);
- (2) The address and parcel identification number of the property where the accommodation is being sought;

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- (3) The name and contact information of the property owner or authorization from the property owner to make application (if different than the applicant);
- (4) The identification of the qualifying handicap or disability and supporting evidence of the need for an accommodation;
- (5) A description of the accommodation requested and the specific regulation or policy from which relief is sought;
- (6) Documented compliance with other life, health and safety requirements affected by the accommodation being sought, including but not limited to, Onsite Sewage Treatment and Disposal Systems.

21.271.C. *Medical Records.* Should the information provided by the disabled individual or qualifying entities to Martin County include medical information or records, including records indicating the medical condition, diagnosis or medical history of the disabled individual, such individual may, at the time of submitting such medical information, request that Martin County, to the extent allowed by law, treat such medical information as confidential information of the disabled individual. Martin County shall thereafter endeavor to provide written notice to the disabled individual, and/or their representative, of any request received by Martin County for disclosure of the medical information or documentation, which the disabled individual has previously requested be treated as confidential by Martin County. Martin County will cooperate with the disabled individual, to the extent allowed by law, in actions initiated by such individual to oppose the disclosure of such medical information or documentation, but Martin County shall have no obligation to initiate, prosecute or pursue any such action, or to incur any legal or other expenses (whether by retention of outside counsel or allocation of internal resources) in connection therewith, and may comply with any judicial order without prior notice to the disabled individual.

Sec. 21.272. Scheduling the administrative reasonable accommodation hearing.

21.272.A. Once a fully completed reasonable accommodation request has been submitted to the County, it will be set for an administrative reasonable accommodation hearing before a hearing officer designated by the County Administrator in consultation with the County Attorney. The hearing officer shall be a member in good standing of The Florida Bar and appointed on the basis of experience and interest in the subject matter.

21.272.B. The hearing officer shall schedule the administrative reasonable accommodation hearing on the reasonable accommodation request within 45 calendar days after receipt of a completed reasonable accommodation request. The County Administrator, or his/her designee, shall determine if the reasonable accommodation request is complete or if additional information is required.

Sec. 21.273. Additional information.

The County Administrator, or his/her designee, may, prior to the end of said 45 calendar day period, request required missing information or additional information from the applicant, specifying in sufficient detail what information is required and/or needed. The applicant shall have 15 calendar days after the date of the request for missing and/or additional information to provide the requested information. In the event a request for missing and/or additional information is made, the 45 calendar day period to conduct the administrative reasonable accommodation hearing shall no longer be applicable, and the County Administrator, or his/her designee, shall set the matter for an administrative reasonable accommodation hearing within 45 calendar days after receipt of the missing and/or additional information. If the applicant fails to provide the requested missing and/or additional information with said 15 calendar day period, the County Administrator, or his/her designee, shall issue a written notice advising that the applicant had failed to timely submit the missing and/or additional information and therefore the request for reasonable accommodation shall be deemed abandoned and/or withdrawn and no further action by Martin County with regard to said reasonable accommodation request shall be required.

Sec. 21.274. Determination by hearing officer.

At the administrative reasonable accommodation hearing, the hearing officer shall consider the reasonable accommodation request and review the information provided by the applicant. The applicant shall be required to establish that they are protected under the FHA and/or ADA by demonstrating that they are handicapped or disabled, as defined in the FHA and/or ADA. Although the definition of disability is subject to judicial interpretation, for purposes of this article the disabled individual must show: (i) a physical or mental impairment which substantially limits one or more major life activities; (ii) a record of having such impairment; or (iii) that they are regarded as having such impairment. Next, the applicant will have to demonstrate that the proposed accommodations being sought are reasonable and necessary to afford handicapped/disabled persons equal opportunity to use and enjoy housing. The foregoing (as interpreted by the Courts) shall be the basis for a decision upon a reasonable accommodation request made by the hearing officer in the event of an appeal.

21.274.A. *Written determination.* The hearing officer shall issue a written determination within 30 calendar days after the administrative reasonable accommodation hearing and shall in accordance with federal law, (1) grant the accommodation request, (2) grant a portion of the request and deny a portion of the request, and/or impose conditions upon the grant of the request as he/she deems necessary, or (3) deny the request, in accordance with federal law. If the request is denied in whole or in part, the determination shall state the grounds therefor. The determination shall also give notice of the right to appeal. The determination shall be sent to the applicant (i.e. the disabled individual(s) or his or her representative) by certified mail, return receipt requested.

21.274.B. *Hearing officer request for information.* If reasonably necessary to reach a determination on the request for reasonable accommodation, the hearing officer may, prior to

the end of said 30 calendar day period following the administrative reasonable accommodation hearing, request additional information from the applicant, specifying in sufficient detail what information is required. The applicant shall have 15 calendar days after the date of the request for additional information to provide the requested information. In the event a request for additional information is made, the 30 calendar day period to issue a written determination shall no longer be applicable, and the hearing officer shall issue a written determination within 30 calendar days after receipt of the additional information.

21.274.C. *Untimely or failure to respond.* If the applicant fails to provide the requested additional information within said 15 calendar day period, the hearing officer shall issue a written notice advising that the applicant had failed to timely submit the additional information and therefore the request for reasonable accommodation shall be deemed abandoned and/or withdrawn and no further action by the County with regard to said reasonable accommodation request shall be required.

Sec. 21.275. Appeal to and determination by County Administrator.

The applicant may appeal the hearing officer's determination within 30 calendar days after the date that the hearing officer's determination is mailed (as shown on the return receipt) to the applicant. All appeals shall contain a statement containing sufficient detail of the grounds for the appeal. Appeals shall be to the County Administrator, or his/her designee, who shall, after the administrative reasonable accommodation hearing, render a determination as soon as reasonably practicable, but in no event later than 30 calendar days after an appeal has been filed. The County Administrator, or his/her designee, may also, within 15 calendar days after the hearing officer's determination on a reasonable accommodation request is mailed (as shown on the return receipt) to the applicant, may reject, in whole or in part, the officer's written determination. Such determination by the County Administrator, or his/her designee, shall be sent to the applicant (i.e. the disabled individual(s) or his or her representative) by certified mail, return receipt requested.

Sec. 21.276. No fee to be imposed.

There shall be no fee imposed by Martin County in connection with a request for reasonable accommodation or an appeal of a determination on such request to the County Administrator. Martin County shall have no obligation to pay an applicant's (or an appealing party's, as applicable) attorneys' fees or costs in connection with the request, or an appeal.

Sec. 21.277. Effect while pending.

While an application for reasonable accommodation, or appeal of a determination of same, is pending before Martin County, it will not enforce the subject zoning ordinance, rules, policies, and procedures against the applicant, except that Martin County may seek injunctive relief if an imminent threat to the health, safety and welfare of the public is present.

Sec. 21.278. Notice and general provisions.

The following general provisions shall be applicable:

- 21.278.A. Martin County shall display a notice on the County's webpage (and shall maintain copies available for review in the County Administrator's Office), advising the public that disabled individuals (and qualifying entities) may request reasonable accommodation as provided herein.
- 21.278.B. A disabled individual may apply for a reasonable accommodation on his/her own behalf or may be represented at all stages of the reasonable accommodation process by a person designated by the disabled individual.
- 21.278.C. The County shall provide such assistance and accommodations as is required pursuant to the FHA and ADA in connection with a disabled person's request for reasonable accommodation, which may include, if needed by the applicant, assistance with reading application questions, responding to questions, completing the form, and filing an appeal, to ensure the process is accessible.
- 21.278.D. Any of the time limits set forth herein may be extended by mutual written agreement of the applicant and Martin County.

~~Sec. 21.279. Reasonable accommodation request form.~~

- ~~1. Name of Applicant: _____
Telephone Number: _____~~
- ~~2. Address: _____~~
- ~~3. Address of housing or other location at which accommodation is requested: _____~~
- ~~4. Describe qualifying disability or handicap:~~
- ~~5. Describe the accommodation and the specific regulation(s) and/or procedure(s) from which accommodation is sought:~~
- ~~6. Reasons the reasonable accommodation may be necessary for the individual with disabilities to use and enjoy the housing or other service:~~
- ~~7. Name, address and telephone number of representative, if applicable:~~
- ~~8. Other information:~~
- ~~9. Signature of disabled individual or representative, if applicable, or qualifying entity:
_____ Date: _____~~

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21.279. Certified Recovery Residences.

Applicants seeking reasonable accommodations for Certified Recovery Residences, as defined by Section 397.311, Florida Statutes, may request a reasonable accommodation pursuant to the procedures set forth in this section.

21.279.A. Applicability. This reasonable accommodation process shall only be applicable to Certified Recovery Residences operating in full compliance with Section 397.487, Florida Statutes. Other accommodations not specific to a Certified Recovery Residence shall be processed pursuant to Sections 21.270 through 21.278.

21.279.B. Application. The reasonable accommodation request form shall be publicly available on the Martin County website and made available at the Growth Management Department. All applications shall be processed consistent with the Fair Housing Amendments Act of 1988, 42 U.S.C. ss. 3601 et seq., and Title II of the Americans with Disabilities Act, 42, U.S.C. ss. 12131 et seq. An application for a reasonable accommodation involving a Certified Recovery Residence must, at a minimum, provide the following information:

- (1) The name and contact information of the applicant and the applicant's authorized representative (if applicable);
- (2) The address and parcel identification number of the property where the accommodation is being sought;
- (3) The name and contact information of the property owner or authorization from the property owner to make application (if different than the applicant);
- (4) The identification of the qualifying disability and supporting evidence of the need for an accommodation;
- (5) Certificate of compliance as a Certified Recovery Residence pursuant to Section 397.487, Florida Statutes; and
- (6) Documented compliance with other life, health and safety requirements affected by the accommodation being sought, including but not limited to, Onsite Sewage Treatment and Disposal Systems.

21.279.C. Review and approval shall be done pursuant to Section 397.487, Florida Statutes.

- (1) Upon receipt of the application materials, staff shall date stamp the materials, review the application for completeness and, notify the applicant within 30 calendar days if additional materials and/or other information is required.
- (2) The applicant shall have at least 30 calendar days from the date of the request for additional information to respond.

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- (3) If the additional materials/information is not submitted within 30 calendar days from the date of the request for additional information, the application may be deemed incomplete, and a determination of denial shall be issued.
- (4) Within 60 calendar days after receipt of the completed application, staff will issue a written final determination, signed by the County Administrator or his/her designee. The determination must:
- a. Approve the request in whole or in part, with or without conditions; or
 - b. Deny the request, stating with specificity the objective, evidence-based reasons for denial and identifying any deficiencies or actions necessary for reconsideration.
- (5) If a final written determination is not issued within 60 calendar days after receipt of a completed application, the request is deemed approved, unless the parties agree in writing to a reasonable extension of time.
- (6) Where a certificate of compliance as a Certified Recovery Residence was not provided with the application materials, the applicant shall provide such certification upon issuance from the credentialing entity.
- (7) The granted accommodation for a Certified Recovery Residence may be revoked for cause, including but not limited to, a violation of the conditions of approval or the lapse, revocation, or failure to maintain certification or licensure required under Section 397.487, Florida Statutes, if not reinstated within 180 days.