

AN ORDINANCE OF INDIAN RIVER COUNTY, FLORIDA, CONCERNING AMENDMENTS TO ITS LAND DEVELOPMENT REGULATIONS; PROVIDING FOR AMENDMENT TO CHAPTER 902, ADMINISTRATIVE MECHANISMS; BY AMENDING SECTION 902.06, RESERVED TO PROVIDE REASONABLE ACCOMODATION PROCEDURES INCLUDING PROCEDURES FOR REVIEW AND APPROVAL OF CERTIFIED RECOVERY RESIDENCES; AND BY PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; CODIFICATION; SEVERABILITY; AND EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA THAT THE INDIAN RIVER COUNTY LAND DEVELOPMENT REGULATIONS CHAPTER 902, ADMINISTRATIVE MECHANISMS, BE AMENDED AS FOLLOWS:

WHEREAS, Senate Bill 954 was adopted in 2025 requiring counties to adopt ordinances establishing procedures for reasonable accommodations of any local land use regulation that prohibits certified recovery residences; and

WHEREAS, creating a procedure to request reasonable accommodations for the establishment of certified recovery residences will provide people with disabilities equal access to housing opportunities in all areas of Indian River County, while preserving the intent and purpose of the County's planning and zoning regulations; and

WHEREAS, Indian River County is committed to serving and providing for the best interest of public health, safety, and welfare of every resident fairly and with compassion through the provisions of this Ordinance; and

WHEREAS, this Ordinance ensures compliance with Section 397.487(15), Florida Statutes.

SECTION #1:

Amend Land Development Regulations Section 902.06, Reserved; as follows:

Section 902.06 - ~~Reserved~~. Reasonable accommodation procedures.

- (1) This section implements the policy of Indian River County (the "County") for processing of requests for reasonable accommodation to its ordinances, rules, policies, and procedures for persons with disabilities as provided by the Federal Fair Housing Amendments Act (42 U.S.C. 3601, et. seq.) ("FHAA") and Title II of 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 FHAA and/or ADA. Any person who is disabled (or a qualifying entity) may request a reasonable accommodation with respect to the County's land use or zoning laws, rules, policies, practices and/or procedures as provided by the FHAA and the ADA pursuant to the procedures set out in this section. Unless specifically allowed in any other section within the County's Land Development Regulations, any licensed or certified residential provider (including any Certified Recovery Residence as defined in Section 397.311 (5), Fla. Stat.) seeking approval from the County for reasonable accommodation must apply as set forth herein.

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- (2) A request by an applicant for reasonable accommodation under this section shall be made in writing by completion of a reasonable accommodation request form, which form is maintained by (and shall be submitted to) the Planning and Development Services (PDS) Department. The reasonable accommodation request form shall be substantially in the form set forth in Section 10 below and upon receipt by the County, will be date-stamped. If additional information is required by the County, the application will not be considered complete, and the County will notify the applicant in writing within the first 30 days after receipt. The applicant shall have 30 days after the receipt of the notice for more information from the County to provide the missing information. The applicant's failure to respond in whole or in part shall be deemed an abandonment of the application, and it will be considered withdrawn.
- (3) Should the information provided by the applicant to the County include medical information or records, including records indicating the medical condition, diagnosis or medical history of the disabled individual, the applicant may, at the time of submitting such medical information, request that the County, to the extent allowed by law, treat such medical information as confidential information. The County shall thereafter endeavor to provide written notice to the applicant, and/or their representative, of any request received by the County for disclosure of the medical information or documentation, which the applicant has previously requested be treated as confidential by the County. The County will cooperate with the applicant, to the extent allowed by law, in actions initiated to oppose the disclosure of such medical information or documentation, but the 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 applicant.
- (4) The PDS Director, or his/her designee, shall have the authority to consider and act on requests for reasonable accommodation, after notice and a hearing to receive any additional information from the applicant. The PDS Director, or designee, shall issue a written determination within sixty (60) days of the date of receipt of a completed application and may, 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, or (3) deny the request. Any such denial shall be in writing and shall state the specific objective and evidence-based grounds for denial and identify any deficiencies or actions necessary for reconsideration. All written determinations shall give notice of the right to appeal. The notice of determination shall be sent to the requesting party (i.e., the disabled individual or qualifying entity or his/her/its representative) by certified mail, return receipt requested. Unless the County and the applicant agree otherwise, if a final written determination is not issued by the County within 60 days after receipt of a completed application, the request shall be deemed granted. In addition, any reasonable accommodation that has been granted may be revoked for cause, including, but not limited to, a violation of any of the conditions for approval or, in the case of any licensed or certified operator, the lapse, revocation, or failure to maintain licensure or certification, if not reinstated within 180 days.
- (5) In determining whether the reasonable accommodation request shall be granted or denied, the requesting party shall be required to establish protections under the FHAA and/or ADA by demonstrating a handicap or disability, as defined in the FHAA and/or ADA. Although the definition of disability is subject to judicial interpretation, for purposes of this section, the applicant must show: (i) a physical or mental impairment which substantially limits one (1) or

more major life activities; (ii) a record of having such impairment; or (iii) that they are regarded as having such impairment. Next, the requesting party 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 PDS Director, or designee.

(6) Within thirty (30) days after the PDS Director, or designee's, determination on a reasonable accommodation request is mailed to the requesting party, such applicant may appeal the decision to the County Administrator. Such appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the PDS Director or designee. An appeal shall be filed within thirty (30) days of the execution of the determination.

(7) There shall be no fee imposed by the County in connection with a request for reasonable accommodation under this section, and the County shall have no obligation to pay a requesting party's (or an appealing party's, as applicable) attorneys' fees or costs in connection with the request, or an appeal.

(8) While an application for reasonable accommodation, or appeal of a determination of same, is pending before the County, the County will not enforce the subject zoning ordinance, rules, policies, and procedures against the applicant. However, should the applicant proceed with any property purchase, building, construction, or other work associated with establishing a project or residence housing individuals covered by the FHAA and/or ADA while an application or appeal for reasonable accommodation is pending, the applicant understands that any of these actions are done at the applicant's own risk because the application or appeal may be denied. If denied, the property will need to be returned to compliance with original zoning ordinances, rules, and standards or the property will become subject to a code violation.

(9) The following general provisions shall be applicable.

(a) The County shall display a notice on the County's webpage (and shall maintain copies available for review in PDS, the Building & Facilities Services Department, and the Clerk to the Board Office) advising the public that an applicant may request reasonable accommodation as provided herein.

(b) An applicant may apply for a reasonable accommodation on his/her/its own behalf or may be represented at all stages of the reasonable accommodation process by a person designated by the applicant.

(c) The County shall provide such assistance and accommodation as is required pursuant to FHAA and ADA in connection with the applicant's request for reasonable accommodation.

(10) Reasonable accommodation request form.

(a) Name and contact information of the applicant;

(b) Name and contact information of applicant's representative, if applicable;

- (c) Address and parcel identification number of housing or other location at which accommodation is requested;
- (d) Description of qualifying disability or handicap;
- (e) Description of the accommodation being requested and the specific regulation(s) and/or procedure(s) from which relief is sought;
- (f) Reasons the reasonable accommodation may be necessary for the individual with disabilities to use and enjoy the housing or other service;
- (g) Other information, which may include details of any proposed site improvements, parking needs, transportation protocols, utility facilities, etc., as necessary;
- (h) Signature of applicant.

SECTION #2: SEVERABILITY

If any clause, section or provision of this Ordinance shall be declared by a court of competent jurisdiction to be unconstitutional or invalid for any cause or reason, the same shall be eliminated from this Ordinance and the remaining portion of this Ordinance shall be in full force and effect and be as valid as if such invalid portion thereof had not been incorporated therein.

SECTION #3: REPEAL OF CONFLICTING ORDINANCES

The provisions of any other Indian River County ordinance that are inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such inconsistency or conflict.

SECTION #4: INCLUSION IN THE CODE OF LAWS AND ORDINANCES

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Indian River County, Florida. The sections of the Ordinance may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or any other appropriate word.

SECTION #5: EFFECTIVE DATE

This Ordinance shall take effect upon filing with the Department of State.

This ordinance was advertised in the Indian River Press Journal on the 7th day of January, 2026, for a public hearing to be held on the 10th day of February, 2026, at which time it was moved for adoption by Commissioner _____, seconded by Commissioner _____, and adopted by the following vote:

Chairman Deryl Loar _____

Vice Chairman Laura Moss _____

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Commissioner Susan Adams _____

Commissioner Joseph E. Flescher _____

Commissioner Joseph H. Earman _____

The Chairman there upon declared the ordinance duly passed and adopted this _____ day of _____, 2026.

BOARD OF COUNTY COMMISSIONERS
OF INDIAN RIVER COUNTY

BY: _____
Deryl Loar, Chairman

ATTEST: Ryan L. Butler, Clerk of Court and Comptroller

BY: _____
Deputy Clerk

This ordinance was filed with the Department of State on the following date: _____

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

Susan J. Prado, Deputy County Attorney

APPROVED AS TO PLANNING MATTERS

John Stoll, Planning & Development Services Director