

# FLORIDA HOUSE OF REPRESENTATIVES

## BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

**BILL #:** [CS/HB 1163](#)

**TITLE:** Recovery Residences

**SPONSOR(S):** Owen

**COMPANION BILL:** [SB 954](#) (Gruters)

**LINKED BILLS:** None

**RELATED BILLS:** [SB 954](#) (Gruters)

### Committee References

[Human Services](#)

12 Y, 5 N, As CS



[Intergovernmental Affairs](#)



[Health & Human Services](#)

## SUMMARY

### Effect of the Bill:

PCS for HB 1163, for operators whose recovery residences were voluntarily certified before the effective date of the bill:

- Limits the ability of local governments to bar those certified recovery residences from operating in multifamily structures,
- Requires local governments to treat those recovery residences as a non-transient residential use of land under local zoning ordinances, and
- Prohibits local governments from regulating the duration or frequency of use of those certified recovery residences in a multifamily structure.

PCS for HB 1163 also, for certain Level IV certified recovery residences, eliminates staffing requirements when patients are not present, and increases the number of residents that a recovery residence administrator can oversee from 150 to 500 if the operator maintains a minimum 1:6 personnel-to-resident ratio when residents are present.

### Fiscal or Economic Impact:

The bill does not have a fiscal impact on state or local government.

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## ANALYSIS

### EFFECT OF THE BILL:

[Recovery residences](#) (also known as “sober homes” or “sober living homes”) are non-medical residential settings designed to support recovery from substance use disorders, helping individuals transition from highly structured residential treatment programs back into their day-to-day lives and maintain their recovery. Florida has a [voluntary certification program](#) for recovery residences which classifies such residences into [four levels of care](#), with [Level IV](#) being the most intense level.<sup>1</sup>

### [Zoning and Recovery Residences](#)

[Local governments'](#) decisions on planning and zoning that affect recovery residences' siting has been the subject of controversy and litigation, both nationally and in Florida, over the last 30 years as recovery residences have become a more significant part of individuals' recovery. Currently, state law does not specifically address the siting of certified recovery residences. PCS for HB 1163 limits the ability of local governments to bar certain certified recovery residences from being located in [multifamily structures](#). Specifically, PCS for HB 1163 requires, for

<sup>1</sup> S. [397.311, F.S.](#), and ss. [397.487](#) – [397.4873, F.S.](#)

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recovery residences operated by providers that were voluntarily certified before the effective date of the bill, a municipality or county to allow:

- A certified recovery residence in all districts zoned multifamily residential as an allowable use; and
- A structure originally constructed and permitted for multifamily purposes to be used as a certified recovery residence, allowing up to two residents per bedroom, without obtaining a zoning or a land use change, a special exception, a conditional use approval, a variance, or a comprehensive plan amendment for the zoning and densities authorized under this subsection. (Section [1](#))

The bill includes exceptions to these requirements, permitting a municipality or a county to deny the establishment of a Level IV certified recovery residence if:

- The proposed use is adjacent to (meaning those properties sharing more than one point of a property line, but not including properties separated by a public road), or on two or more sides of, a parcel zoned for single-family residential use; and
- Is within a single-family residential development with at least twenty-five contiguous single-family homes. (Section [1](#))

PCS for HB 1163 requires local governments to treat certain recovery residences operated by providers that were voluntarily certified before the effective date of the bill as a [nontransient residential use](#) of land under local zoning ordinances. (Section [1](#))

Currently, until July 1, 2026, a local government may not enact an ordinance or regulation that further regulates the duration or frequency of a resident's stay in a certified recovery residence located within a multifamily zoning district.<sup>2</sup> PCS for HB 1163 prohibits local governments from regulating the duration or frequency of use of a certified recovery residence in a multifamily structure operated by providers that were voluntarily certified before the effective date of the bill. (Section [1](#))

### [Staffing Requirements for Certified Recovery Residences](#)

Current law specifies a minimum ratio of personnel-to-residents in certified recovery residences and maximum numbers of residents that a certified recovery residence administrator may supervise. Certain Level IV certified recovery residences may allow their certified recovery residence administrators to supervise a higher number of residents—up to 150.<sup>3</sup>

PCS for HB 1163 also revises the staffing requirements for a Level IV certified recovery residence operating as community housing being actively managed by a certified recovery residence administrator approved for 100 residents and wholly owned or controlled by a licensed service provider. The bill eliminates staffing requirements for when residents are not present, and increases the number of residents that a recovery residence administrator can oversee from 150 to 500 if the operator maintains a 1:6 personnel-to-resident ratio when residents are present. (Section [2](#))

The effective date of the bill is July 1, 2025. (Section [3](#))

## **FISCAL OR ECONOMIC IMPACT:**

### **PRIVATE SECTOR:**

PCS for HB 1163 may expand opportunities for operators of recovery residences certified before the effective date of the act to open recovery residences where local government regulations have previously prohibited operation,

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<sup>2</sup> S. [397.487\(14\), F.S.](#)

<sup>3</sup> S. [497.4871\(8\), F.S.](#)

particularly in multifamily structures. PCS for HB 1163 may also benefit certain Level IV recovery residences, which will be subject to lower staffing requirements.

## RELEVANT INFORMATION

### SUBJECT OVERVIEW:

#### Recovery Residences

Recovery residences (also known as “sober homes” or “sober living homes”) are non-medical residential settings designed to support recovery from substance use disorders, helping individuals transition from highly structured residential treatment programs back into their day-to-day lives.<sup>4</sup> These may be cooperatively organized and run by residents or operated by for-profit or non-profit organizations.

Homes for individuals recovering from substance use disorder have existed in the U.S. since the mid-1800’s, when the focus was on those chronically abusing alcohol; these homes were typically run by religious groups involved in the temperance movement or by privately-run “cure institutes”. The modern version of these homes began in the mid-1960’s, when homes promoting adherence to 12-step programs like Alcoholics Anonymous--but not offering clinical or therapeutic services--began operating.<sup>5</sup>

According to the federal Substance Abuse and Mental Health Services Administration, “recovery housing can be a critical asset in supporting an individual on their journey of recovery. Research has demonstrated that recovery housing is associated with a variety of positive outcomes for residents including decreased substance use, reduced likelihood of return to use, lower rates of incarceration, higher income, increased employment, and improved family relationships.”<sup>6</sup>

In Florida, a “recovery residence” means “a residential dwelling unit, the community housing component of a licensed day or night treatment facility with community housing, or other form of group housing, which is offered or advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment.”<sup>7</sup> Day or night treatment is one of the state’s licensable service components of clinical treatment services. This service is provided in a nonresidential environment with a structured schedule of treatment and rehabilitative services.<sup>8</sup> Some day or night treatment programs have a community housing component; day and night treatment programs with a community housing component are intended for individuals who can benefit from living independently in peer community housing while participating in treatment services at a day or night treatment facility for a minimum of 5 hours a day for a minimum of 25 hours per week.<sup>9</sup>

Recovery residences can be located in single-family homes and multifamily dwellings. There is no definition for “multifamily” in Florida law; however, the term generally refers to “a housing classification where multiple separate housing units for residential inhabitants are contained within one building or several buildings within one complex.”<sup>10</sup> Examples are condominiums, duplexes, and apartment complexes. To live at a recovery residence, occupants may be required to pay a monthly fee or rent, which supports the cost of maintaining the home. The

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<sup>4</sup> Douglas L. Polcin, Ed.D., MFT, and Diane Henderson, B.A., *A Clean and Sober Place to Live: Philosophy, Structure, and Purported Therapeutic Factors in Sober Living Houses*, 40(2) J Psychoactive Drugs 153–159 (June 2008).

<sup>5</sup> *To License a LULU: Scaling Preemption-Driven Responses to the Regulation of Recovery Homes*, 135 Harv. L. Rev. 733, 736 (2021) <https://harvardlawreview.org/print/vol-135/a-license-a-lulu-scaling-preemption-driven-responses-to-the-regulation-of-recovery-homes/> (last visited March 30, 2025).

<sup>6</sup> Substance Abuse and Mental Health Services Administration, *Best Practices for Recovery Housing*, 2023, <https://library.samhsa.gov/sites/default/files/pep23-10-00-002.pdf> (last visited March 29, 2025).

<sup>7</sup> S. 397.311(39), F.S.

<sup>8</sup> S. 397.311(27)(a)2., F.S.

<sup>9</sup> S. 397.311(27)(a)3., F.S.

<sup>10</sup> Real Estate Industry: A Resource Guide, *Multifamily Real Estate*, Library of Congress Research Guides, <https://guides.loc.gov/real-estate-industry-sources/residential/multifamily> (last visited March 29, 2025).

length of time a person lives at a recovery residence varies,<sup>11</sup> and there are no guidelines regarding lengths of stay.<sup>12</sup>

## Regulation of Recovery Residences in Florida

### *The Florida Model of Substance Abuse Treatment and Legislative Response*

Recovery residences started to proliferate in Florida as insurance coverage for behavioral health conditions expanded after the enactment of the Affordable Care Act in 2008 and the Mental Health Parity and Addiction Equity Act of 2012.<sup>13</sup> The opioid crisis created a demand for addiction recovery services, and the housing crash of the late 2000's made purchasing and renting homes generally more affordable. The "Florida model" emerged, where after the first stages of detoxification and inpatient treatment, an individual enters intensive outpatient or day treatment services while residing in a recovery residence.<sup>14</sup>

While substance abuse treatment services require state licensure, at that time there was no legislatively-authorized method of ensuring quality in recovery residences. While many individuals undergoing treatment in Florida found long-term recovery, this situation led to relapse, human trafficking, and even death for others. According to the 2017 report from the Palm Beach County Sober Homes Task Force, "young adults with a substance use disorder are being marketed to Florida's recovery residences, also known as sober homes, and substance abuse treatment providers by the thousands, and many in this vulnerable class are being exploited and abused. The lack of effective oversight of this industry, especially in the private sector, has allowed bad actors to flourish, significantly contributing to the rising death toll."<sup>15</sup> This was a particularly significant issue in Palm Beach County and other jurisdictions in South Florida.

In 2013, the Department of Children and Families (DCF) conducted a study of recovery residences in Florida.<sup>16</sup> DCF sought public comment relating to community concern for recovery residences. Three common concerns were the safety of the residents, safety of the neighborhoods and lack of governmental oversight.<sup>17</sup> Participants at public meetings listed many concerns, such as:

- Residents being evicted with little or no notice;
- Drug testing might be a necessary part of compliance monitoring;
- Unscrupulous landlords, including an alleged sexual offender who was running a woman's program;
- Residents dying in recovery residences;
- Lack of regulation and harm to neighborhoods;
- Whether state agencies have the resources to enforce regulations and adequately regulate these homes; and
- Land use problems, and nuisance issues caused by visitors at recovery residences, including issues with trash, noise, fights, petty crimes, substandard maintenance, and parking.

<sup>11</sup> American Addiction Center, *Length of Stay at a Sober Living Home*, October 2022, available at <https://americanaddictioncenters.org/sober-living/length-of-stay>, (last visited March 30, 2025).

<sup>12</sup> Meenakshi S. Subbaraman, *Six-month length of stay associated with better recovery outcomes among residents of sober living houses*, 49 American Journal of Drug and Alcohol Abuse (Oct. 2023) <https://www.tandfonline.com/doi/full/10.1080/00952990.2023.2245123#abstract> (last visited March 29, 2025).

<sup>13</sup> Palm Beach County Sober Homes Task Force, *Identification of Problems in the Substance Abuse Treatment and Recovery Residence Industries with Recommended Changes to Existing Laws and Regulations*, Jan. 1, 2017, <https://sa15.wpenginepowered.com/wp-content/uploads/Sober-Homes-Task-Force-Report-2017.pdf> (last visited March 29, 2025).

<sup>14</sup> Douglas Polcin, et al, *Maximizing Social Model Principles in Residential Recovery Settings*, Journal of Psychoactive Drugs, Nov 2014, <https://pmc.ncbi.nlm.nih.gov/articles/PMC4220294/> (last visited March 29, 2025).

<sup>15</sup> Palm Beach County Sober Homes Task Force, *supra* note 13, at 1.

<sup>16</sup> Ch. 2013-040, L.O.F. The 2013-2014 General Appropriations Act directed DCF to determine whether to establish a licensure/registration process for recovery residences and to provide the Governor and Legislature with a report on its findings. In its report, DCF was required to identify the number of recovery residences operating in Florida, identify benefits and concerns in connection with the operation of recovery residences, and the impact of recovery residences on effective treatment of alcoholism and on recovery residence residents and surrounding neighborhoods. DCF was also required to include the feasibility, cost, and consequences of licensing, regulating, registering, or certifying recovery residences and their operators. DCF submitted its report to the Governor and Legislature on October 1, 2013.

<sup>17</sup> *Recovery Residence Report*, Department of Children and Families, Office of Substance Abuse and Mental Health, October 1, 2013, available at <https://www.myflfamilies.com/sites/default/files/2022-12/DCFProvisoRpt-SoberHomes.pdf> (last visited on March 29, 2025).

The 2015 Legislature responded by establishing a voluntary certification program for recovery residences and recovery residence administrators, implemented by private credentialing entities.<sup>18</sup> This means that recovery residences can continue to operate without being certified, but certification offers advantages to recovery residence operators.

### [Certification of Recovery Residences and Recovery Residence Administrators](#)

In Florida, a “certified recovery residence” is a recovery residence that holds a valid certificate of compliance and is actively managed by a certified recovery residence administrator.<sup>19</sup> While certification is voluntary, a recovery residence must be certified to accept or receive patient referrals from licensed treatment providers or existing recovery residences.<sup>20</sup>

Under the certification program, two DCF-approved credentialing entities administer certification programs and issue certificates: the Florida Association of Recovery Residences (FARR) certifies the recovery residences and the Florida Certification Board (FCB) certifies recovery residence administrators.<sup>21</sup>

#### Certified Recovery Residences

As the credentialing entity for recovery residences in Florida, FARR administers certification, recertification, and disciplinary processes as well as monitors and inspects recovery residences to ensure compliance with certification requirements. FARR is also authorized to deny, revoke, or suspend a certification, or otherwise impose sanctions, if recovery residences are not in compliance or fail to remedy any deficiencies identified. However, any decision that results in an adverse determination is reviewable by DCF.<sup>22</sup>

To be certified, a recovery residence must submit the following documents with an application fee to FARR:<sup>23</sup>

- A policy and procedures manual containing:
  - Job descriptions for all staff positions;
  - Drug-testing procedures and requirements;
  - A prohibition against use on the premises of alcohol, marijuana (including marijuana that has been certified by a qualified physician for medical use in accordance with s. [381.986](#)); illegal drugs, and the use of prescribed medications by an individual other than the individual for whom the medication is prescribed;
  - Policies to support a resident’s recovery efforts; and
  - A good neighbor policy to address neighborhood concerns and complaints;
- Rules for residents;
- Copies of all forms provided to residents;
- Intake procedures;
- Sexual predator and sexual offender registry compliance policy;
- Relapse policy;
- Fee schedule;
- Refund policy;
- Eviction procedures and policy;
- Code of ethics;
- Proof of insurance;
- Proof of background screening; and
- Proof of satisfactory fire, safety, and health inspections.

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<sup>18</sup> 2015-100, L.O.F.

<sup>19</sup> S. [397.311\(5\), F.S.](#)

<sup>20</sup> S. [397.4873\(1\), F.S.](#)

<sup>21</sup> DCF, *Recovery Residence Administrators and Recovery Residences*, available at <https://www.myflfamilies.com/services/samh/recovery-residence-administrators-and-recovery-residences> (last visited March 29, 2025).

<sup>22</sup> S. [397.487\(8\)\(f\), F.S.](#)

<sup>23</sup> S. [397.487\(3\)\(a\), F.S.](#)

If the owner, director, or chief financial officer of a certified recovery residence is arrested and awaiting disposition for or found guilty of, or enters a plea of guilty or nolo contendere to, any offense prohibited under [s. 435.04\(2\), F.S.](#), unless DCF has issued an exemption, the certified recovery residence must immediately remove the person from the person's position and notify the credentialing entity within three business days after that removal. If the recovery residence fails to do so, the credentialing entity must revoke the recovery residence's certificate of compliance.<sup>24</sup>

Current law requires DCF to publish a list of all certified recovery residences and recovery residence administrators on its website.<sup>25</sup> There are currently more than 750 certified recovery residences statewide, with 244 of this total classified as level IV.<sup>26</sup>

### Certified Recovery Residence Administrators

The FCB administers certification, certification exams, recertification, code of ethics and disciplinary processes, and continuing education requirements. It also establishes core competencies for certified recovery residence administrators (CRRAs).<sup>27</sup> The FCB may also deny, suspend or revoke a recovery residence administrator's certification for noncompliance.<sup>28</sup>

CRRAs are individuals responsible for the overall management of a recovery residence, as well as the supervision of residents and staff.<sup>29</sup> Prior to obtaining certification, CRA applicants must successfully undergo a level 2 background screening pursuant to [ch. 435, F.S.](#)<sup>30</sup> Additionally, the FCB currently requires CRRAs to:<sup>31</sup>

- Hold at least a high school diploma, GED, or equivalent;
- Complete 100 total clock hours of content specific training, as follows:
  - Recovery Residence Operations and Administration: 20 hours;
  - Maintaining the Physical Residence: 20 hours;
  - Resident Screening and Admission: 10 hours;
  - Resident Recovery Support: 30 hours; and
  - Legal, Professional and Ethical Responsibilities: 20 hours.
- Complete 1,000 hours of work and/or volunteer related experience providing recovery residence administrator, manager or closely-aligned residential management services within a recovery residence setting;
- Undergo 10 hours of on-the-job supervision of the applicant's performance of related recovery residence administrator, manager, or residential management services within a recovery residence setting;
- Obtain three professional letters of recommendation;
- Pass an exam administered by the FCB;
- Complete 10 hours of continuing education annually; and
- Apply for certification renewal annually.

Current law requires a recovery residence to immediately remove a CRA and notify the credentialing entity within three business days after the removal, if the CRA is arrested for, found guilty of, or enters a plea of guilty or nolo contendere to, regardless of adjudication, any offense prohibited under [s. 435.04\(2\), F.S.](#), while acting in

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<sup>24</sup> S. [397.487\(8\)\(d\), F.S.](#)

<sup>25</sup> S. [397.4872, F.S.](#) Also see DCF, *Recovery Residence Administrators and Recovery Residences*, available at <https://www.myflfamilies.com/services/samh/recovery-residence-administrators-and-recovery-residences>, (last visited March 29, 2025).

<sup>26</sup> Department of Children and Families, Bill Analysis for House Bill 1163, Feb. 24, 2025, p. 4.

<sup>27</sup> S. [397.4871, F.S.](#)

<sup>28</sup> *Id.*

<sup>29</sup> Florida Certification Board (FCB), *Certified Recovery Residence Administrator (CRA)*, available at <https://flcertificationboard.org/certifications/certified-recovery-residence-administrator/> (last visited March 29, 2025).

<sup>30</sup> S. [397.4871\(5\), F.S.](#)

<sup>31</sup> FCB, *Certification Guidelines: Credential Standards and Requirements Table: Certified Recovery Residence Administrator (CRA)*, p. 4-5, available at <https://flcertificationboard.org/wp-content/uploads/CRA-Standards-and-Requirements-Tables-January-2020.pdf> (last visited March 29, 2025).



capacity. The recovery residence has 90 days to retain another CRRA or be subject to revocation of its certification.<sup>32</sup>

### [Staffing Requirements for Certified Recovery Residences](#)

A CRRA may actively manage up to 50 residents at any given time, though may manage up to 100 residents if written justification is provided to, and approved by, the credentialing entity as to how the administrator is able to effectively and appropriately respond to the needs of the residents, maintain residence standards, and meet the residence certification requirements.<sup>33</sup> CRRA's at certain Level IV certified recovery residences (those operating as community housing as defined in [s. 397.311\(9\), F.S.](#), which residence is actively managed by a certified recovery residence administrator approved for 100 residents under this section and is wholly owned or controlled by a licensed service provider) are allowed to actively manage up to 150 residents provided certain conditions are met:

- The licensed service provider maintains a service provider personnel-to-patient ratio of 1 to 8,
- Maintains onsite supervision at the residence 24 hours a day, 7 days a week, and
- Has a personnel-to-resident ratio of 1 to 10.<sup>34</sup>

### [Recovery Residence Levels of Support](#)

Section [397.311\(5\), F.S.](#), establishes a four level-classification of certified recovery residences, with Level IV being the most intense level of support. The levels include:

- Level I — houses individuals in recovery who have completed treatment, with a minimum of 9 months of sobriety. A Level I certified recovery residence is democratically run by the members who reside in the home.
- Level II — encompasses the traditional perspectives of sober living homes. There is oversight from a house manager who has experience with living in recovery. Residents are expected to follow rules outlined in a resident handbook provided by the certified recovery residence administrator. Residents must pay dues, if applicable, and work toward achieving realistic and defined milestones within a chosen recovery path.
- Level III — offers higher supervision by staff with formal training to ensure resident accountability. Such residences are staffed 24 hours a day, 7 days a week, and offer residents peer-support services, which may include, but are not limited to, life skill mentoring, recovery planning, and meal preparation. Clinical services may not be performed at the residence. Such residences are most appropriate for persons who require a more structured environment during early recovery from addiction.
- [Level IV](#) — is a residence offered, referred to, or provided by, a licensed service provider to its patients who are required to reside at the residence while receiving intensive outpatient and higher levels of outpatient care. Such residences are staffed 24 hours a day and combine outpatient licensable services with recovery residential living. Residents are required to follow a treatment plan and attend group and individual sessions, in addition to developing a recovery plan within the social model of living in a sober lifestyle. No clinical services are provided at the residence and all licensable services are provided offsite.

## **Local Government Land Use Regulation**

### [Comprehensive Plans](#)

Each county and municipality must plan for future development and growth by adopting, implementing, and amending as necessary a comprehensive plan.<sup>35</sup> Comprehensive plans are implemented through land development regulations and elements.<sup>36</sup> Each comprehensive plan contains elements that address future land use, housing,

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<sup>32</sup> S. [397.4871\(6\)\(b\), F.S.](#)

<sup>33</sup> *Id.*

<sup>34</sup> S. [397.4871\(8\)\(b\), F.S.](#) and [\(c\), F.S.](#)

<sup>35</sup> Ss. [163.3167\(2\), 163.3177\(2\), F.S.](#)

<sup>36</sup> S. [163.3167\(1\)\(c\), F.S.](#)

transportation, infrastructure, coastal management, conservation, recreation and open space, intergovernmental coordination, and capital improvements.

All elements of a plan or plan amendment must be based on relevant, appropriate data<sup>37</sup> and an analysis by the local government.<sup>38</sup> The data supporting a plan or amendment must be taken from professionally accepted sources.<sup>39</sup> The plan must be based on permanent and seasonal population estimates and projections published by the Office of Economic and Demographic Research or generated by the local government based upon a professionally acceptable methodology.<sup>40</sup> The analysis by the local government may include, but is not limited to, surveys, studies, community goals and vision, and other data available at the time of adoption of the comprehensive plan or plan amendment.<sup>41</sup>

### Land Development Regulations

Comprehensive plans are implemented via land development regulations. Each county and municipality must adopt and enforce land development regulations, such as zoning or other housing-related ordinances, that are consistent with and implement their adopted comprehensive plan.<sup>42</sup> Additionally, all public and private development, including special district projects, must be consistent with the local comprehensive plan.<sup>43</sup>

### Zoning

Zoning maps and zoning districts are adopted by a local government for developments within each land use category or sub-category. While land uses are general in nature, one or more zoning districts may apply within each land use designation.<sup>44</sup> Examples of major types of zoning often used in local jurisdictions include:<sup>45</sup>

- **Residential** — an area of single-family or [multifamily dwellings](#) where businesses may or may not also be located. The zone could be subdivided into areas specifically for multiple-unit dwellings, high-rise apartments, and redevelopment.
- **Commercial**—a zone specifically for commercial businesses. It may be subdivided into areas for small retail, large retail, offices, lodging and other uses.
- **Mixed Residential-Commercial**—also called Mixed-Use, this zoning permits a combination of complementary residential, commercial and/or industrial uses in a single district.
- **Industrial**—an area for industry or manufacturing. Businesses here specialize in the manufacture of industrial products and the provision of services for industrial manufacture. This zone may be subdivided into areas for heavy manufacturing, light assembly and warehouses.
- **Special**—an area that includes other specialized properties such as power plants, sports complexes, airports, and shopping malls.

Common regulations within the zoning map districts include density<sup>46</sup>, height and bulk of buildings, setbacks, and parking requirements. Regulations for a zoning category in a downtown area may allow for more density and height than allowed in a suburb, for instance. Exceptions to zoning rules are known as variances; local

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<sup>37</sup> “To be based on data means to react to it in an appropriate way and to the extent necessary indicated by the data available on that particular subject at the time of adoption of the plan or plan amendment at issue.” S. [163.3177\(1\)\(f\), F.S.](#)

<sup>38</sup> S. [163.3177\(1\)\(f\), F.S.](#)

<sup>39</sup> S. [163.3177\(1\)\(f\)2., F.S.](#)

<sup>40</sup> S. [163.3177\(1\)\(f\)3., F.S.](#)

<sup>41</sup> S. [163.3177\(1\)\(f\), F.S.](#)

<sup>42</sup> S. [163.3202, F.S.](#)

<sup>43</sup> See [ss. 163.3161\(6\)](#), and [163.3194\(1\)\(a\), F.S.](#)

<sup>44</sup> Indian River County, General Zoning Questions, available at [https://indianriver.gov/services/community\\_development/faq.php#faq-questions-33](https://indianriver.gov/services/community_development/faq.php#faq-questions-33) (last visited March 29, 2025).

<sup>45</sup> Tulane University Law School, The Basics of Land Use and Zoning Law, <https://online.law.tulane.edu/blog/land-use-and-zoning-law> (last visited March 30, 2025).

<sup>46</sup> “Density” means an objective measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre. See [s. 163.3164\(12\), F.S.](#)



governments grant these to applicants to address a problem due to the nature of a specific property or to meet a unique need that would not be harmful to the public interest.<sup>47</sup>

### [Transient Public Lodging Establishments](#)

Section [509.013, F.S.](#), defines “public lodging establishment”. A public lodging establishment can be either transient or nontransient. A public lodging establishment is nontransient if the periods of rental to guests are 30 days or a month or more in length. Examples of facilities excluded from the definition of “public lodging establishment” are:

- Any facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place regulated under [s. 381.0072, F.S.](#), and
- Any roominghouse, boardinghouse, or other living or sleeping facility that may not be classified as a hotel, motel, timeshare project, vacation rental, nontransient apartment, bed and breakfast inn, or transient apartment under [s. 509.242, F.S.](#)<sup>48</sup>

The Division of Hotels and Restaurants within the Department of Business and Professional Regulation is charged with enforcing the provisions of [ch. 509, F.S.](#), and all other applicable laws relating to the inspection and regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare. Thus, the division determines which establishments qualify as public lodging establishments.

Under [s. 509.032, F.S.](#), a local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals, excepting certain local laws, ordinances, or regulations that were grandfathered in.

### *Zoning and Recovery Residences*

As [local governments](#) determine their own zoning regulations, regulations vary within a jurisdiction’s zoning map districts. Additionally, since the physical buildings that may be used as recovery residences vary in size and other elements and may be located in different zoning map districts, the requirements that may apply to a building that may be used as a recovery residence can differ both among jurisdictions and even from street to street within a jurisdiction.

While local governments determine these regulations, enacting them by local ordinance, regulations must comply with federal and state law and regulation. The Fair Housing Act and the Americans with Disabilities Act are two federal laws that circumscribe local government authority regarding zoning affecting recovery residences.

### Americans with Disabilities Act

The Americans with Disabilities Act (ADA) prohibits discrimination against individuals with disabilities.<sup>49</sup> The ADA requires broad interpretation of the term “disability” so as to include as many individuals as possible under the definition.<sup>50</sup> The ADA defines disability as a physical or mental impairment that substantially limits one or more major life activities.<sup>51</sup> Disability also includes individuals who have a record of such impairment, or are regarded as having such impairment.<sup>52</sup> The phrase “physical or mental impairment” includes, among others<sup>53</sup>, drug addiction

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<sup>47</sup> Tulane University Law School, *supra* note 45.

<sup>48</sup> Section [509.242, F.S.](#), establishes classifications for public lodging establishments. These include hotels, motels, vacation rentals, nontransient apartment, transient apartment, bed and breakfast inn, and timeshare project. A “transient apartment” is defined as “a building or complex of buildings in which more than 25 percent of the units are advertised or held out to the public as available for transient occupancy.”

<sup>49</sup> 42 U.S.C. s. 12101. This includes prohibition against discrimination in employment, state and local government services, public accommodations, commercial facilities, and transportation. U.S. Department of Justice, *Law, Regulations & Standards*, available at [http://www.ada.gov/2010\\_regs.htm](http://www.ada.gov/2010_regs.htm) (last visited March 29, 2025).

<sup>50</sup> 42 U.S.C. s. 12102.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

and alcoholism.<sup>54</sup> However, this only applies to individuals in recovery as ADA protections are not extended to individuals who are actively abusing substances.<sup>55</sup>

## Fair Housing Amendment Act

The Fair Housing Amendment Act of 1988 (FHA) prohibits housing discrimination based upon an individual's handicap.<sup>56</sup> A person is considered to have a handicap if he or she has a physical or mental impairment which substantially limits one or more of his or her major life activities.<sup>57</sup> This includes individuals who have a record of such impairment, or are regarded as having such impairment.<sup>58</sup> Drug or alcohol addiction are considered to be handicaps under the FHA.<sup>59</sup> However, current users of illegal controlled substances and persons convicted for illegal manufacture or distribution of a controlled substance are not considered handicapped under the FHA.

Based on these federal laws in particular, local governments' decisions on zoning that affects recovery residences' siting has been the subject of significant litigation, both nationally and in Florida, over the last 30 years.<sup>60</sup> Recovery residences' suits have alleged that some local governments have structured their zoning regulation to keep the residences from being able to operate, in response to citizens' concerns about possible detrimental effects to quality of life and property values, in violation of federal law. Local governments point to high costs of emergency response services, poor service quality impeding recovery and impacting health and safety of individuals in recovery living in the residences, and negative impacts on neighborhoods where recovery residences are in high concentration or operated by bad actors.

Federal law requires reasonable accommodations when zoning would exclude individuals with disabilities from housing in a community.<sup>61</sup> According to a joint federal Department of Justice and Department of Housing and Urban Development statement, "reasonable accommodation" is "a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since rules, policies, practices, and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others may sometimes deny them an equal opportunity to use and enjoy a dwelling."<sup>62</sup>

However, there are also legitimate government interests that a local jurisdiction can seek to achieve through its planning and zoning.<sup>63</sup> Additionally, local governments are not required to grant accommodations when they would impose an undue financial and administrative burden on the local government or fundamentally alter the essential nature of the locality's zoning scheme.<sup>64</sup>

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<sup>53</sup> 28 C.F.R. s. 35.108(b). The phrase physical or mental impairment includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic) and tuberculosis.

<sup>54</sup> 28 C.F.R. s. 35.108(b).

<sup>55</sup> 28 C.F.R. s. 35.131.

<sup>56</sup> 42 U.S.C. § 3604. Similar protections are also afforded under the Florida Fair Housing Act, [s. 760.23, F.S.](#), which provides that it is unlawful to discriminate in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of a person residing in or intending to reside in that dwelling after it is sold, rented, or made available. The statute provides that "discrimination" is defined to include a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to such person equal opportunity to use and enjoy a dwelling.

<sup>57</sup> 42 U.S.C. § 3602(h).

<sup>58</sup> *Id.*

<sup>59</sup> *Oxford House, Inc. v. Town of Babylon*, 819 F. Supp. 1179, 1182 (E.D.N.Y. 1993).

<sup>60</sup> See *Recovery Residence Report*, DCF, *supra* note 17, beginning at 10, for cases up until 2013.

<sup>61</sup> Daniel Lauber, *Reforming State and Local Zoning for Community Residences for People With Disabilities and for Recovery Communities* (2024), p. 150, [https://sa15.wpenginepowered.com/wp-content/uploads/Florida\\_Study\\_CR\\_and\\_RC\\_Report\\_2024.pdf](https://sa15.wpenginepowered.com/wp-content/uploads/Florida_Study_CR_and_RC_Report_2024.pdf) (last visited March 30, 2025).

<sup>62</sup> Department of Justice and Department of Housing and Urban Development, *State and Local Land Use Laws and Practices and the Application of the Fair Housing Act*, Nov. 10, 2016, p. 8, <https://www.justice.gov/opa/file/912366/dl> (last visited March 30, 2025).

<sup>63</sup> Lauber, *supra* note 61, at 150-151. Examples of such interests cited in this source include assuring that the health and safety needs of the occupants with disabilities are met, and facilitating the essential core characteristics of community residences of emulating a family, normalization, community integration, and the use of neighbors without disabilities as role models.

<sup>64</sup> HUD/DOJ, *supra* note 62, at 8.

RECENT LEGISLATION:

YEAR	BILL #	HOUSE SPONSOR(S)	SENATE SPONSOR	OTHER INFORMATION
2024	<a href="#">CS/CS/CS/HB 1065</a>	Caruso	Harrell	Chapter No. 2024-176

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
<a href="#">Human Services Subcommittee</a>	12 Y, 5 N, As CS	4/1/2025	Mitz	Curry

THE CHANGES ADOPTED BY THE COMMITTEE: Click or tap here to enter text.

<a href="#">Intergovernmental Affairs Subcommittee</a>
<a href="#">Health &amp; Human Services Committee</a>

THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.