

**DARBY COMMUNITY DEVELOPMENT
DISTRICT**

**Policies and Rates Regarding Use of the District's
Amenity Center**

In accordance with Chapters 190 and 120, Florida Statutes, and on December 17, 2025 at duly noticed public meeting, the Board of Supervisors of the Darby Community Development District adopted the policies set forth herein.

USER FEE STRUCTURE

- (1) The annual user fee for an individual not owning property within the District is **\$3,000.00**. The annual user fee for a non-owner is valid for a maximum of two (2) adults and their dependents, if any.
- (2) One Facility Access Card will be issued to each family owning property within the District and non-resident fee-paying families. There is a **\$30.00** charge to replace lost cards. Replacement cards may be obtained through Governmental Management Services, email kmullins@gmsnf.com.
- (3) All Guests must be accompanied by a Patron (as defined below) at all times. Patrons are limited to a maximum of five (5) guests at a time.
- (4) The person making a fee payment where a check is returned due to insufficient funds will be liable for a **\$50.00** Returned Check/Insufficient Funds fee.

GENERAL PROVISIONS

- (1) District property owners and non-resident fee payers ("Patrons") must present their access cards and register upon entering the Darby Amenity Center ("Amenity Center").
- (2) Children fourteen (14) years of age and younger must be accompanied by a parent or authorized person eighteen (18) years old or older.
- (3) The Amenity Center's hours of operation will be sunrise to sunset, except for pre-approved special events, and except as otherwise designated by the District. The pool may only be used from 30 minutes after sunrise to 30 minutes before sunset, in accordance with Florida Department of Health regulations.
- (4) Alcoholic beverages shall not be served or sold, nor permitted to be consumed on the Amenity Center's premises, except at pre-approved special events. Approval may only be granted by the District's Board of Supervisors (present request to Amenity Manager in at least 48 hours in advance of the meeting) and will be contingent upon providing proof of event insurance with the District named an additional insured.
- (5) Dogs or other pets (with the exception of service animals, such as "Seeing Eye Dogs") are not permitted at the Amenity Center facilities or grounds. Where dogs are permitted on the grounds, they must be leashed at all times.
- (6) Vehicles must be parked in designated areas. Vehicles may not be parked on grass lawns or in any way which blocks the normal flow of traffic.
- (7) Fireworks of any kind are not permitted anywhere on the facilities or adjacent areas.
- (8) No Patron, visitor or guest is allowed in the pool service equipment areas of the facility.
- (9) With the exception of the rates and the rules governing the rates, the Board of Supervisors reserves the right to amend or modify these policies without a public hearing when necessary and will notify the Patrons of any changes.

- (10) The Board of Supervisors and personnel of the Amenity Center have full authority to enforce these rules and regulations.
- (11) Facility Access Cards will be issued to Patrons at the time they become entitled to use the facilities. All Patrons must use their card for entrance to the Amenity Center. All lost or stolen cards should be reported immediately to Governmental Management Services, by email kmullins@gmsnf.com.
- (12) Smoking is not permitted anywhere in the Amenity Center.
- (13) Guests must be accompanied by a Patron before entering the Amenity Center.
- (14) Disregard for any Amenity Center rules or policies may result in expulsion from the facility and/or loss of Amenity Center privileges.
- (15) Glass and other breakable items are not permitted at the Amenity Center.
- (16) Patrons and their guests shall treat any staff members and other Patrons with courtesy and respect.

LOSS OR DESTRUCTION OF PROPERTY OR INSTANCES OF PERSONAL INJURY

Each Patron and each guest as a condition of invitation to the premises of the Amenity Center assume sole responsibility for his or her property. The District and its contractors shall not be responsible for the loss of damage to any private property used or stored on the premises of the Amenity Center, whether in lockers or elsewhere.

No person shall remove from the room in which it is placed or from the Amenity Center's premises any property or furniture belonging to the District or its contractors without proper authorization. Amenity Center Patrons shall be liable for any property damage and/or personal injury at the Amenity Center, or at any activity or function operated, organized, arranged or sponsored by the District or its contractors, caused by the patron, any guests or any family members. The District reserves the right to pursue any and all legal and equitable measures necessary to remedy any losses due to property damage or personal injury.

Any Patron, guest or other person who, in any manner, makes use of or accepts the use of any apparatus, appliance, facility, privilege or service whatsoever owned, leased or operated by the District or its contractors, or who engages in any contest game, function, exercise, competition or other activity operated, organized, arranged or sponsored by the District, either on or off the Amenity Center's premises, shall do so at his or her own risk, and shall hold the Amenity Center, the District, the Board of Supervisors, District employees, District representatives, District contractors, and District agents harmless for any and all loss, cost, claim, injury damage or liability sustained or incurred by him or her, resulting therefrom and/or from any act of omission of the, the District, or their respective operators, Supervisors, employees, representatives, contractors, or agents. Any Patron shall have, owe, and perform the same obligation to the Amenity Center or District and their respective operators, Supervisors, employees, representative, contractors, and agents hereunder in respect to any loss, cost, claim, injury, damage or liability sustained or incurred by any guest or family member of such Patron.

Should any party bound by these District Policies bring suit against the District or its affiliates, Amenity Center operator, officers, employees, representatives, contractors or agents in connection with any event operated, organized, arranged or sponsored by the District or any other claim or matter in connection with any event operated, organized, arranged or sponsored by the District, and fail to obtain judgment therein against the District or its Amenity Center operator, officers, employee, representative, contractor or agent, said party shall be liable to the District for all costs and expenses incurred by it in the defense of such suit (including court costs and attorney's fees through all appellate proceedings).

USE AT OWN RISK; INDEMNIFICATION

Any Patron, guest, or other person who participates in the Activities (as defined below), shall do so at his or her own risk, and shall indemnify, defend, release, hold harmless, and forever discharge the District and its contractors, and the present, former, and future supervisors, staff, officers, employees, representatives, agents, and contractors of each (together, "Indemnitees"), for any and all liability, claims, lawsuits, actions, suits or demands, whether known or unknown, in law or equity, by any individual of any age, or any corporation or other entity, for any and all loss, injury, damage, theft, real or personal property damage, expenses (including attorney's fees, costs and other expenses for investigation and defense and in connection with, among other proceedings, alternative dispute resolution, trial court, and appellate proceedings), and harm of any kind or nature arising out of, or in connection with, the participation in the Activities, by said Patron, guest, or other person, and any of his or her guests and any members of his or her household.

Should any Patron, guest, or other person bring suit against the Indemnitees in connection with the Activities or relating in any way to the Amenities, and fail to obtain judgment therein against the Indemnitees, said Patron, guest, or other person shall be liable to the District for all attorney's fees, costs, and other expenses for investigation and defense and in connection with, among other proceedings, alternative dispute resolution, trial court, and appellate proceedings.

The waiver of liability contained herein does not apply to any act of intentional, willful or wanton misconduct by the Indemnitees.

For purposes of this section, the term "Activities" shall mean the use of or acceptance of the use of the Amenities, or engagement in any contest, game, function, exercise, competition, sport, event, or other activity operated, organized, arranged or sponsored by the District, its contractors or third parties authorized by the District.

Nothing herein shall constitute or be construed as a waiver of the District's limitations on liability contained in Section 768.28, F.S., or other statutes or law.

GENERAL SWIMMING POOL RULES

- (1) At any given time, a Patron may accompany up to five (5) guests at the swimming pool. Patrons and their guests are limited to a maximum of two (2) vehicles at the Amenity Center.
- (2) Patrons and their guests swim at their own risk. Lifeguards are not on duty.
- (3) Children fourteen (14) years of age and younger must be accompanied by an adult at least eighteen (18) years of age at all times for usage of the pool facility.

- (4) Radios, televisions, and the like may be listened to if played at a volume that is not offensive to other members and guests. Electrical equipment is not allowed around the pool facility.
- (5) Swimming is permitted only during designated hours, as posted at the pool. Hours are seasonal and subject to change.
- (6) Showers are required before entering the pool.
- (7) Glass containers and food products are not permitted in the pool area.
- (8) Children under three (3) years of age and those who are not reliably toilet trained must wear rubber-lined swim diapers, as well as a swim suit over the swim-diaper, to reduce the health risks associated with human waste in the swimming pool/deck area.
- (9) Play equipment, such as floats, rafts, snorkels, dive sticks, and flotation devices are not permitted in the pool. However, children that are learning to swim are permitted to have flotation devices in the pool.
- (10) Pool availability may be rotated in order to facilitate maintenance of the Amenity Center.
- (11) Pets, bicycles, skateboards, roller blades, scooters and golf carts are not permitted on the pool deck area inside the pool gates at any time. Bicycles should be parked at the bike rack provided at the front of the Amenity Center.
- (12) The District staff reserves the right to authorize all programs and activities, including the number of guest participants, equipment and supplies usage, etc., conducted at the pool including Swim Lessons, Aquatic/Recreational Programs and Pool Parties.
- (13) Any person swimming when the Amenity Center is closed will be suspended from using the facility. Swimming pool hours are posted. The swimming pool may be closed one day weekly (to be determined) for maintenance. Guests must be registered and accompanied by a Patron before entering the Amenity Center.
- (14) Proper swim attire must be worn in the pool. Cut-offs and thong bathing suits are not allowed.
- (15) No chewing gum is permitted in the pool or on the pool deck area.
- (16) Alcoholic beverages are not permitted in the pool area.
- (17) No diving, jumping, pushing, running or other horseplay is allowed in the pool or on the pool deck area.
- (18) For the comfort of others, the changing of diapers or clothes is not allowed at pool side. Changing stations are available in the restrooms.
- (19) No one shall pollute the pool. Anyone who does pollute the pool is liable for any costs incurred in treating and reopening the pool.
- (20) Radio controlled water craft are not allowed in the pool area.
- (21) Pool entrances must be kept clear at all times.

- (22) Smoking is not permitted at the Amenity Center or around the pool area.
- (23) No swinging on ladders, fences, or railings is allowed.
- (24) Pool furniture is not to be removed from the pool area.
- (25) Loud, profane, or abusive language is prohibited.
- (26) Food and drink are not allowed within six (6) feet of the pool.
- (27) Playing with basketballs, baseballs and soccer balls is not permitted at the Amenity Center.

SWIMMING POOL: THUNDERSTORM POLICY

During periods of heavy rain, thunderstorms and other inclement weather the pool facilities will be considered closed.

For your safety, at the sound of thunder or visibility of lightning of a pending storm, the pool area will be closed for a minimum of 30 minutes from the last sighting or sound. All pool users are responsible for removing themselves from the pool during such times.

To prevent damage to the umbrellas, please close the umbrellas prior to the arrival of a pending storm.

SWIMMING POOL: FECES POLICY

- (1)** If contamination occurs, the pool will be closed up to twelve (12) hours and the water will be shocked with chlorine to kill the bacteria.
- (2)** Parents should take their children to the restroom before entering the pool.
- (3)** Children under three years of age, and those who are not reliably toilet trained, must wear a rubber lined swim-diaper, and a swimsuit over the swim-diaper.

PLAYGROUND POLICIES

- (1)** **Hours:** The playground shall be available for use from 7:00 a.m. or sunrise, whichever is later, and will close at 9.p.m. or sunset, whichever is later, except for pre-approved special events.
- (2)** Children under the age of thirteen (13) must be accompanied by a parent or authorized person eighteen (18) years old or older.
- (3)** Children thirteen (13) years old and older are not permitted to play on the playground equipment.
- (4)** No roughhousing on the playground.
- (5)** Persons using the playground must clean up all food, beverages and miscellaneous trash brought to the playground.

- (6) The use of profanity or disruptive behavior is prohibited.
- (7) No climbing is permitted on top of the playground equipment that was not designed to be climbed upon.

SERVICE ANIMAL POLICY

Dogs or other pets (with the exception of “Service Animal(s)” trained to do work or perform tasks for an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability) are not permitted within any District-owned public accommodations including, but not limited to, amenity buildings (offices and social halls), pools, playgrounds, parking lots, open spaces and other appurtenances or related improvements. A Service Animal must be kept under the control of its handler by leash or harness, unless doing so interferes with the Service Animal’s work or tasks or the individual’s disability prevents doing so. The District may remove the Service Animal under the following conditions:

- If the Service Animal is out of control and the handler does not take effective measures to control it;
- If the Service Animal is not housebroken; or,
- If the Service Animal’s behavior poses a direct threat to the health and safety of others.

The District may not ask about the nature or extent of an individual’s disability in order to determine whether an animal is a Service Animal or pet. However, the District may ask whether an animal is a Service Animal required because of a disability and what work or tasks the animal has been trained to perform.

FACILITY RENTAL POLICIES

Patrons may reserve for rental certain portions of the pool deck and playground for private events. Only a portion of the pool deck is available for rental at any given time and reservations must be made and approved at least 2 weeks and no more than four (4) months prior to the event. In addition, each household may rent the covered pavilion of the pool and playground pavilion only once per quarter of the calendar year. Persons interested in doing so should contact Governmental Management Services, by email kmullins@gmsnf.com regarding the anticipated date and time of the event to determine availability. Please note that the pool deck and playground is unavailable for private events on the following holidays:

Easter Sunday	Halloween	New Years Eve
Memorial Day Weekend	Thanksgiving Day	New Years Day
4 th of July	Christmas Eve	
Labor Day Weekend	Christmas Day	

- (1) Available Facilities: The pool deck covered pavilion area and playground covered pavilion are available for private rental (capacity; rental fee established by rule) for a minimum of four (4) hours (including set-up and post-event cleanup).
 - Pool Pavilion
 - Playground Pavilion

Note: The pool is not available for private rental and shall remain open to other Patrons and their guests during normal operating hours.

The Patron renting the pool deck pavilion or playground pavilion shall be responsible for any and all damage and expenses arising from the event.

- (2) **Reservations:** Patrons interested in reserving the pool deck pavilion or playground pavilion

must submit a completed Facility Use Application to Governmental Management Services, by email at kmullins@gmsnf.com.

(3) **Rental:** At the time of approval, two (2) checks or money orders (no cash) made out to the ***Darby Community Development District*** should be submitted to Governmental Management Services in order to reserve the desired area of the pool deck or playground. **One (1) check should be in the amount of the rental fee and the other check should be in the amount of the deposit.**

Governmental Management Services will review the Facility Use Application on a case-by-case basis and has the authority to reasonably deny a request. Denial of a request may be appealed to the District's Board of Supervisors for consideration

(4) **Fees and Deposits:** The rental rates as set forth below include a minimum four (4) hour block of time. Additional hours beyond four (4) are available at the designated per hour rental fee. The rental fees and deposits for the use of the District's recreational facilities for private social gatherings are as follows:

	Fee
Pavilion Rental (Non-Refundable Fee)	\$50/4 hours
Pavilion Rental (Additional hours)	\$20/hour
Pavilion Rental (Refundable deposit)	\$150 (refundable)

(5) **Refund of Deposit:** To receive a full refund of the deposit, the following must be completed where applicable:

- Do not adhere signs or decorations to the walls or ceilings.
- Ensure that all garbage is removed and placed in the waste container located on the patio.
- Remove all displays, favors or remnants of the event.
- Restore the furniture and other items to their original position.
- Wipe off table tops.
- Replace garbage can liner (as needed).
- Ensure that no damage has occurred to the Amenities and its property.
- Patron and Patron's guests are required to adhere to all Amenity Center and pool rules and regulations. Failure to comply with such rules and regulations may result in the forfeiture of Patron's deposit.

If additional cleaning is required, the Patron reserving the area under the Pavilion area will be liable for any expenses incurred by the District to hire an outside cleaning contractor. In light of the foregoing, Patrons may opt to pay for the actual cost of cleaning by a professional cleaning service hired by the District. The District Manager shall determine the amount of deposit to return, if any.

(6) General Policies:

- Patrons are responsible for ensuring that their guests adhere to the policies set forth herein.
- The volume of live or recorded music must not violate applicable Duval County noise ordinances.
- No glass, breakable items or alcohol are permitted in or around the pool deck area.

SUSPENSION AND TERMINATION OF ACCESS RULE

Law Implemented: ss. 120.69, 190.011, 190.012, Fla. Stat. (2023)
Effective Date: November 14, 2023

In accordance with Chapters 190 and 120 of the Florida Statutes, and on November 14, 2023 at a duly noticed public meeting, the Board of Supervisors (“Board”) of the Darby Community Development District (“District”) adopted the following rules / policies to govern disciplinary and enforcement matters. All prior rules / policies of the District governing this subject matter are hereby rescinded for any violations occurring after the date stated above.

1. Introduction. This rule addresses disciplinary and enforcement matters relating to the use of the amenities and other properties owned and managed by the District (“Amenity Center” or “Amenity Facilities”).

2. General Rule. All persons using the Amenity Facilities and entering District properties are responsible for compliance with the rules and policies established for the safe operations of the District’s Amenity Facilities.

3. Access Cards. Access Cards are the property of the District. The District may request surrender of, or may deactivate, a person’s Patron Card for violation of the District’s rules and policies established for the safe operations of the District’s Amenity Facilities.

4. Suspension and Termination of Rights. The District, through its Board of Supervisors (“Board”), District Manager, and Amenity Manager shall have the right to restrict or suspend, and after a hearing as set forth herein, terminate the Amenity Facilities access of any Patron and members of their household or Guests to use all or a portion of the Amenity Facilities for any of the following acts (each, a “Violation”):

- a. Submitting false information on any application for use of the Amenity Facilities, including but not limited to facility rental applications;
- b. Failing to abide by the terms of rental applications;
- c. Permitting the unauthorized use of a Patron Card or otherwise facilitating or allowing unauthorized use of the Amenity Facilities;
- d. Exhibiting inappropriate behavior or repeatedly wearing inappropriate attire;
- e. Failing to pay amounts owed to the District in a proper and timely manner (with the exception of special assessments);
- f. Failing to abide by any District rules or policies (e.g., Amenity Policies);
- g. Treating the District’s staff, contractors, representatives, residents, Patrons or Guests, in a harassing or abusive manner;
- h. Damaging, destroying, rendering inoperable or interfering with the operation of District property, or other property located on District property;

- i. Failing to reimburse the District for property damaged by such person, or a minor for whom the person has charge, or a guest;
- j. Engaging in conduct that is likely to endanger the health, safety, or welfare of the District, its staff, amenities management, contractors, representatives, residents, Patrons or Guests;
- k. Committing or being alleged, in good faith, to have committed a crime on District property that leads the District to reasonably believe the health, safety or welfare of the District, its staff, contractors, representatives, residents, Patrons or Guests is likely endangered;
- l. Engaging in another Violation after a verbal warning has been given by staff (which verbal warning is not required); or
- m. Such person's guest or a member of their household committing any of the above Violations.

Permanent termination of access to the District's Amenity Facilities shall only be considered and implemented by the Board in situations that pose a long term or continuing threat to the health, safety and/or welfare of the District, its staff, contractors, representatives, residents, Patrons or Guests. The Board, in its sole discretion and upon motion of any Board member, may vote to rescind a termination of access to the Amenity Facilities.

5. Suspension Procedures.

- a. ***Immediate Suspension.*** The District Manager, Amenity Manager or their designee has the ability to immediately remove any person from one or all Amenities or issue a suspension for up to sixty (60) days for the Violations described above, or when such action is necessary to protect the health, safety and welfare of other Patrons and their guests, or to protect the District's facilities from damage. If, based on the nature of the offense, staff recommends a suspension longer than sixty (60) days, such suspension shall be considered at the next Board meeting. Crimes committed or allegedly committed on District property shall automatically result in an immediate suspension until the next Board meeting.
- b. ***Notice of Suspension.*** The District Manager or his or her designee shall mail a letter to the person suspended referencing the conduct at issue, the sections of the District's rules and policies violated, the time, date, and location of the next regular Board meeting where the person's suspension will be presented to the Board, and a statement that the person has a right to appear before the Board and offer testimony and evidence why the suspension should be lifted. If the person is a minor, the letter shall be sent to the adults at the address within the community where the minor resides.

7. **Property Damage Reimbursement.** If damage to District property occurred in connection with a Violation, the person or persons who caused the damage, or the person whose guest caused the damage, or the person who has charge of a minor that caused the damage, shall reimburse the District for the costs of cleaning, repairing, and/or replacing the property ("Property Damage Reimbursement"). Such Property Damage Reimbursement shall be in addition to any suspension or termination of Amenity access, any applicable legal action warranted by the circumstances.

8. Initial Hearing by the Board; Property Damage Reimbursement.

- a. If a person's Amenity Facilities privileges are suspended, as referenced in Section 5, such person shall be entitled to a hearing at the next regularly scheduled Board meeting that is at least eight (8) days after the initial suspension, as evidenced by the date of notice sent by certified electronic or other mail service or as soon thereafter as a Board meeting is held if the meeting referenced in the letter is canceled. At said meeting, both District staff and the person subject to the suspension shall be given the opportunity to appear, present testimony and evidence, cross examine witnesses present, and make arguments. The Board may also ask questions of District staff, the person subject to the suspension, and witnesses present. All persons are entitled to be represented by a licensed attorney at such hearing if they so choose. Any written materials should be submitted at least seven (7) days before the hearing for consideration by the Board. If the date of the suspension is less than eight (8) days before a Board meeting, the hearing may be scheduled for the following Board meeting at the discretion of the suspendee.
- b. The person subject to the suspension may request an extension of the hearing date to a future Board meeting, which shall be granted upon a showing of good cause, but such extension shall not stay the suspension.
- c. After the presentations by District staff and the person subject to the suspension, the Board shall consider the facts and circumstances and determine whether to lift or extend the suspension or impose a termination. In determining the length of any suspension, or a termination, the Board shall consider the nature of the conduct, the circumstances of the conduct, the number of rules or policies violated, the person's escalation or de-escalation of the situation, and any prior Violations and/or suspensions.
- d. The Board shall also determine whether a Property Damage Reimbursement is warranted and, if so, set the amount of such reimbursement. If the cost to clean, repair and/or replace the property is not yet available, the Property Damage Reimbursement shall be fixed at the next regularly scheduled Board meeting after the cost to clean, repair, and/or replace the property is known.
- e. After the conclusion of the hearing, the District Manager shall mail a letter to the person suspended identifying the Board's determination at such hearing.

9. Suspension by the Board. The Board on its own initiative acting at a noticed public meeting may elect to consider a suspension of a person's access for committing any of the Violations outlined in Section 4. In such circumstance, a letter shall be sent to the person suspended which contains all the information required by Section 5, and the hearing shall be conducted in accordance with Section 8.

10. Automatic Extension of Suspension for Non-Payment. Unless there is an affirmative vote of the Board otherwise, no suspension or termination will be lifted or expire until all Property Damage Reimbursements have been paid to the District. If a Property Damage Reimbursement is not paid by its due date, the District reserves the right to request surrender of, or deactivate, all access cards or key fobs associated with an address within the District until such time as the outstanding amounts are paid.

11. Appeal of Board Suspension. After the hearing held by the Board required by Section 8, a person subject to a suspension or termination may appeal the suspension or termination, or the assessment or amount of a Property Damage Reimbursement, to the Board by filing a written request for an appeal (“Appeal Request”), as referenced in Section 8(e). The filing of an Appeal Request shall not result in the stay of the suspension or termination. The Appeal Request shall be filed within thirty (30) calendar days after mailing of the notice of the Board’s determination as required by Section 8(f), above. For purposes of this Rule, wherever applicable, filing will be perfected and deemed to have occurred upon receipt by the District. Failure to file an Appeal Request shall constitute a waiver of all rights to protest the District’s suspension or termination and shall constitute a failure to exhaust administrative remedies. The District shall consider the appeal at a Board meeting and shall provide reasonable notice to the person of the Board meeting where the appeal will be considered. At the appeal stage, no new evidence shall be offered or considered. Instead, the appeal is an opportunity for the person subject to the suspension or termination to argue, based on the evidence elicited at the hearing, why the suspension or termination should be reduced or vacated. The Board may take any action deemed by it in its sole discretion to be appropriate under the circumstances, including affirming, overturning, or otherwise modifying the suspension or termination. The Board’s decision on appeal shall be final.

12. Legal Action; Criminal Prosecution; Trespass. If any person is found to have committed a Violation, such person may additionally be subject to arrest for trespassing or other applicable legal action, civil or criminal in nature. If a person subject to a suspension or termination is found at the Amenity Facilities, such person will be subject to arrest for trespassing. If a trespass warrant is issued to a person by a law enforcement agency, the District has no obligation to seek a withdrawal or termination of the trespass warrant even though the issuance of the trespass warrant may effectively prevent a person from using the District’s Amenity Facilities after expiration of a suspension imposed by the District.

13. Severability. If any section, paragraph, clause or provision of this rule shall be held to be invalid or ineffective for any reason, the remainder of this rule shall continue in full force and effect, it being expressly hereby found and declared that the remainder of this rule would have been adopted despite the invalidity or ineffectiveness of such section, paragraph, clause or provision.