

ORDINANCE 2025-18

AN ORDINANCE OF THE CITY OF WAUCHULA, FLORIDA; AMENDING THE WAUCHULA UNIFIED LAND DEVELOPMENT CODE, RELATED TO CERTIFIED RECOVERY RESIDENCES SO AS TO COMPLY WITH THE REQUIREMENTS OF 2025 FLORIDA LEGISLATURE SENATE BILL (SB) 954, AS CODIFIED IN F.S. SECTION 397.487; SPECIFICALLY AMENDING ARTICLE 2, REGULATIONS FOR SPECIFIC DISTRICTS, TABLE 2.02.01(A), TABLE OF LAND USES; ARTICLE 2, SECTION 2.03.06, SPECIAL NEEDS HOUSING FACILITIES; AND AMENDING ARTICLE 9, DEFINITIONS AND ACRONYMS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature, by HB 21 (2015), established a voluntary certification program for recovery residences that establishes operational and ethical safeguards for disabled persons and the City desires to acknowledge and promote such safeguards; and

WHEREAS, in accordance with SB 954 (2025) pertaining to “Certified Recovery Residences”, the City desires to enact an ordinance providing for procedures for the review and approval of certified recovery residences including handling and processing requests for accommodation from the City’s Land Development Code before the statute’s effective date of January 1, 2026; and

WHEREAS, “reasonable accommodation” is a statutorily established method by which an individual who is disabled and/or handicapped (as those terms are defined in Title II of the Americans with Disabilities Act and/or the Fair Housing Amendments Act, hereafter “disabled”), or a provider of services to the disabled qualifying for reasonable accommodations under the referenced statutes, can request a modification or alteration in the application of a specific Code provision, rule, policy, or practice, to them. The proposed accommodation sought by the disabled individual must be reasonable and necessary to afford such person an equal opportunity to use and enjoy housing; and

WHEREAS, the City hereby desires to adopt within the City’s Land Development Code, and consistent with SB 954(2025) and the Final Order of the Southern District of Florida in Jeffrey O. v. Town of Boca Raton, 511 F. Supp. 2d 1339 (S.D. Fla. 2007), reasonable accommodation procedures that will permit disabled individuals (or qualifying entities) to request reasonable accommodations and, where appropriate based on the facts and law, to receive reasonable accommodations; and

WHEREAS, the City desires to require annual recertification of reasonable accommodation approvals to ensure ongoing protection for the disabled; and

WHEREAS, the Planning and Zoning Board, sitting as the Local Planning Agency, has determined that the change is consistent with and furthers the goals, objectives and policies of the City’s Comprehensive Plan; and

WHEREAS, the Planning and Zoning Board reviewed the proposed text amendment at a public hearing held on November 18, 2025 and voted to recommend that the changes be approved; and

WHEREAS, the City Commission is charged with protecting the health, safety, and welfare of its residents and believes this Ordinance to be in the best interests of the residents.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WAUCHULA, FLORIDA, THAT:

Section 1. Ratification. That the foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this ordinance.

Section 2. Amendment. The text amendments to Article 2, Table 2.02.01(A); Article 2, Section 2.03.06 Special Needs Housing Facilities; and Article 9, as shown in **Exhibit “A”** attached hereto and made a part hereof, are hereby approved.

Section 3. Severability. If any provision or portion of this ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full force and effect.

Section 4. Repeal of Ordinances in Conflict. All other ordinances of Wauchula, or portions thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 5. Codification. It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City, Unified Land Development Code; and that sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "chapter", "section", "article", or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the Code is accomplished, sections of this Ordinance may be renumbered or relettered and the correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the City Manager or designee, without need of public hearing, by filing a corrected or recodified copy of same with the City Clerk.

Section 6. Effective Date. This ordinance shall be effective immediately after passage upon Second Reading.

Section 7. Certified Copy. A certified copy of this enacting ordinance and certified copy of the City of Wauchula of Ordinances shall be located in the Office of the City Clerk of Wauchula. The City Clerk shall also make copies available to the public for a reasonable publication charge.

INTRODUCED AND PASSED on first reading in regular session of the City Commission of the City of Wauchula, the ____ day of ____, 2025.

PASSED on second and final reading by the City Commission of the City of Wauchula, Florida, at regular session this ____ day of ____, 2026.

This ordinance was moved for adoption by Commissioner _____.
The motion was seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

Commissioner Anne Miller _____	insert yes or no
Commissioner Russell Graylin Smith _____	insert yes or no
Commissioner Keith Nadaskay, Jr _____	insert yes or no
Commissioner Dr. Sherri Albritton _____	insert yes or no
Commissioner Gary Smith _____	insert yes or no

(SEAL)

ATTEST:

APPROVED:

Stephanie Camacho, City Clerk

Richard Keith Nadaskay, Jr., Mayor

APPROVED AS TO FORM AND LEGALITY:

Thomas A. Cloud, City Attorney

EXHIBIT “A”
**PROPOSED TEXT AMENDMENTS TO THE CITY’S
UNIFIED LAND DEVELOPMENT CODE**

Text shown as underlined is text to be added.
Text shown as ~~strikeout~~ is text to be removed.

ARTICLE 2: REGULATIONS FOR SPECIFIC DISTRICTS

2.02.01 Zoning District Summary Tables~~Error! Bookmark not defined.~~

The tables on the following pages present, in a quick-reference form, information regarding permitted and special exception land uses, and development standards for all zoning districts. These tables must be read in conjunction with the regulations for specific zoning districts in Section 2.02.02 and the regulations for building design and appearance standards in Section 2.06.00. The Development Director may permit in a particular zone a use not listed in this Code, provided the use is of the same general type as the uses permitted there by this Code (See Section 2.01.02). The key to the table is as follows:

- P = Permitted Use - Use is permitted by right subject to all other applicable standards
PC = Permitted with Conditions - Use is permitted if it meets the listed conditions in Section 3.08.00, and subject to all other applicable standards. At the Development Director's discretion, any development larger than five acres or development that may have compatibility concerns may be sent to the Planning and Zoning Board for approval.
S = Special Exception Use - Use is permitted if it meets the listed conditions in Section 3.09.00, subject to all other applicable standards, and only after review and approval of a special exception permit by the Planning and Zoning Board.
* See Table 2.02.01(B) for uses that require approval of a Planned Unit Development including conditions as outlined in Section 3.10.00.

Table 2.02.01(A), Table of Land Uses

Category/Use	AG	FR	R-1A	R-1	R-2	R-3	R-4	P-1	HC-1	C-1	C-2	I	P/S P	CO N
Group Care Facilities														
Family Care: Adult Family Care Home <u>and</u> <u>Certified Recovery Residences</u>	P	P	P	P	P	P	P							
Community Residential Home (up to 6 residents) - May not be located within 1,000 foot radius of same use	P	P	P	P	P	P	P							
Community Residential Home (7 to 14 residents)					S	S	S							
Family Day Care Home/Family Child Care Home	P	P	P	P	P	P	P	P	S	S	S			
Family Foster Home	P	P	P	P	P	P	P	P	S	S	S			
Special Needs Care Facilities: Adult Day Care Center						PC		PC		PC	PC		PC	
Child Care Facility						PC		PC		PC	PC		PC	
Foster Care Facility						PC		PC		PC	PC		PC	

Group Home (4—6 residents)					PC	PC		PC		PC	PC		PC	
Group Home (7—15 residents)						PC		PC		PC	PC		PC	
Assisted Living Facility						PC		PC		PC	PC		PC	
Nursing Home						PC		PC		PC	PC		PC	
Hospice			PC	PC	PC	PC		PC		PC	PC		PC	

2.03.06 Special Needs Housing Facilities and Certified Recovery Residences

- (A) Special needs housing facilities provide 24-hour care. These care facilities are subject to local zoning laws and may be located in residential areas but are generally confined to commercial areas.
- (B) They are licensed or registered by the State of Florida according to separate and specific provisions of the Florida Statutes. Article 9 of this code defines each special needs housing facility. They are listed as a group in the Table of Land Uses, [Subsection] 2.02.01(A).
- (C) Any violation of applicable State regulations shall be deemed a violation of this Code, and shall constitute grounds for termination of the use.

(D) Certified Recovery Residences shall comply with section 397.487 F.S. The City has implemented a procedure for processing requests for reasonable accommodation to the City's Unified Land Development Code ("ULDC") Land Development Regulations, Rules, Policies, and Procedures for persons with disabilities as defined by the federal Fair Housing Amendments Act (42 U.S.C. 3601, et seq.) ("FHA") and Title II of the Americans with Disabilities Amendments Act (42 U.S.C. Section 12131, et seq.) ("ADA"). For purposes of this section, a "disabled" person is an individual who qualifies as disabled and/or handicapped under the FHA and/or ADA. Any person who is disabled (or qualifying entities) may request a reasonable accommodation with respect to the City's Land Development Code, Code of Ordinances, rules, policies, practices and/or procedures as provided by the FHA and the ADA pursuant to the procedures set out in this section.

1) Notice to the public of availability of accommodation. The City shall display a notice in the City's public notice bulletin board (and shall maintain copies available for review in the City Clerk department, advising the public that disabled individuals (and qualifying entities) may request a reasonable accommodation as provided herein.

2) Application. A request by an applicant for reasonable accommodation under this section shall be either oral or written. A written request may be submitted by completion of a reasonable accommodation request form, which form is maintained by (and shall be submitted to the City Clerk. 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 substantially in the form set forth in subsection (6)(a), below.

- a. *Confidential information.* Should the information provided by the applicant to the City 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 the City, to the extent allowed by law, treat such medical information as confidential information of the disabled individual. The City shall thereafter endeavor to provide written notice to the disabled individual, and/or their representative, of any request received by the City for disclosure of the medical information or documentation which the disabled individual has previously requested be treated as confidential by the City. The City 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 the City 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.
 - b. *Fee.* There shall be no fee imposed by the City in connection with a request for reasonable accommodation under this section or an appeal of a determination on such request to the City commission, and the City shall have no obligation to pay a requesting party's (or an appealing party's, as applicable) attorney's fees or costs in connection with the request, or an appeal.
 - c. *City assistance.* The City shall provide such assistance and accommodation as is required pursuant to FHA and ADA in connection with an applicant's request for reasonable accommodation, including, without limitation, assistance with reading application questions, responding to questions, completing the form, filing an appeal, and appearing at a hearing, etc., to ensure the process is accessible.
- 3) *Findings regarding reasonable accommodation.* In determining whether the reasonable accommodation request shall be granted or denied, the requesting party shall be required to establish, at a minimum, that:
- a. They are protected under the FHA and/or ADA by demonstrating that they are handicapped or disabled, or a qualifying entity, as defined in the FHA and/or ADA.
 - b. The proposed reasonable accommodations sought are reasonable and necessary to afford the subject individual(s) with disabilities an

equal opportunity to use and enjoy the housing that is the subject of the request.

The foregoing, in addition to applicable federal standards, (all as interpreted by the courts) shall be the basis for a decision upon a reasonable accommodation request made by the City Manager, or his/her designee, or by a Special Magistrate in the event of an appeal.

4) Decision process.

The City Manager, or his/her designee, shall have the authority to consider and act on requests for reasonable accommodation, recertification of an approved reasonable accommodation, and amendment to an approved reasonable accommodation.

a. When a reasonable accommodation request form has been completed and submitted to the City Clerk, it must be date-stamped upon receipt.

b. Next, it will be referred to the City Manager, or his/her designee, for review and consideration. The City Manager, or his/her designee, shall issue a written determination within no more than 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 in accordance with federal law, stating with specificity, the evidence-based reasons for denial and identifying 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 his/her representative) by certified mail, return receipt requested. If a final written determination is not issued within sixty (60) days after receipt of a completed application, the request is deemed approved unless the parties agree in writing to reasonable extension of time.

c. If reasonably necessary to reach a determination on the request for reasonable accommodation, the City Manager, or his/her designee, may, within thirty (30) days of the receipt of the request for reasonable accommodation, request additional information from the requesting party, specifying in sufficient detail what information is required. The requesting party shall have thirty (30) days after the date of the request for additional information to provide the requested information. If the requesting party fails to provide the requested additional information within said thirty (30) day period, the City Manager, or his/her designee, shall issue a written notice advising that the requesting party 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 City with regard to said reasonable accommodation request shall be required.

5) *Appeal.* The appeal of any decision of the City Manager or his/her designee regarding a request for reasonable accommodation, recertification of an approved reasonable accommodation, or amendment to an approved reasonable accommodation shall be considered pursuant to the requirements of this section. Within thirty (30) days after the City Manager's, or his/her designee's, determination regarding a reasonable accommodation request is mailed to the requesting party, such applicant may appeal the decision by filing a notice of appeal with the City Clerk. The City Clerk or designee shall act as clerk to the Special Magistrate for purposes of an appeal from a decision under this section. All appeals shall contain a statement containing sufficient detail of the grounds for the appeal. Appeals shall be to the Special Magistrate who shall, after public notice and a public hearing, render a determination as soon as reasonably practicable, but in no event later than sixty (60) days after an appeal has been filed. The appeal shall be conducted as a de novo review of the evidence on record for the original review under the required findings of this section. The decision of the Special Magistrate shall be considered final City action and may be appealed within thirty (30) days to a court of competent jurisdiction as provided by law.

6) Request form for reasonable accommodation.

a. Contents of reasonable accommodation request form

1. Name and contact information of the applicant, and as applicable, the applicant's authorized representative;
2. Information regarding property at which reasonable accommodation is requested, including the parcel address of such location and property identification number;
3. Describe the accommodation and the specific regulation(s) and/or procedure(s) from which accommodation is sought;
4. Reasons the accommodation may be necessary for the applicant or the individuals with disabilities seeking the specific accommodation; and if relating to housing, why the requested reasonable accommodation is necessary to use and enjoy the housing;
5. Description of the qualifying disability or handicap;
6. Other relevant information pertaining to the disability or property that may be needed by the City in order for it to be able to evaluate the request for reasonable accommodation;

7. A statement as to whether the applicant is seeking the accommodation in order to make housing and/or provision of housing financially viable, with supporting documentation;
 8. A statement as to the therapeutic necessity of the accommodation for the applicant, with supporting documentation;
 9. If seeking a reasonable accommodation from the definition of family:
 - a) Proof of state licensure, as applicable to the location for which the reasonable accommodation is requested; or
 - b) Proof of certification pursuant to Section 397.487, Fla. Stat. as amended, or alternatively, certification under a nationally accredited agency or recognition or sanction by Congress if the accommodation is for or related to a recovery residence, as defined in Section 397.311, Fla. Stat.; and
 - c) All applicants must provide proof of satisfactory fire, safety, and health inspections as required by Section 397.487, Fla. Stat. or other applicable statute, as amended from time to time for the location for which the reasonable accommodation is requested;
 10. Signature of applicant;
 11. Date of application;
 12. If on-site supervisor or manager, provide the name and contact information (phone and email) for each;
 13. Disclosure of ownership interests of property; and
 14. Consent of all property owners for application.
- 7) *Stay of enforcement.* While an application for reasonable accommodation, or appeal of a determination of same, is pending before the City, the City will not enforce the subject zoning ordinance, rules, policies, and procedures against the applicant.
- 8) *Expiration of approvals.* Approvals of requests for reasonable accommodation shall expire within one hundred eighty (180) days if not implemented.

9) Revocation of reasonable accommodation.

- a. Any reasonable accommodation received shall be deemed revoked if the applicant or the property upon which the accommodation is granted is found in violation of any conditions of the approval granting the reasonable accommodation by a court of law or by the special magistrate hearing code enforcement cases.
- b. Failure to obtain state certification or a required state license, or failure to maintain state certification or a required state license or alternate certification permitted by this section, shall result in revocation of the reasonable accommodation and cessation of operations within sixty (60) days of termination of the license or certification.

10) Annual certification. All reasonable accommodation requests approved by the City shall be valid for no more than one year and shall require annual recertification each year on or before February 1st. Recertification requests must be filed at least ninety (90) days before the conclusion of the end of the one-year period of effectiveness of the reasonable accommodation approval. The failure of the applicant to timely apply for annual recertification, or the denial of an annual recertification application, shall result in the revocation of the approved reasonable accommodation. Recertification requests shall follow the same submittal, review and procedural requirements as set forth above for new applications. If a reasonable accommodation is for a property which is required to be licensed or certified pursuant to this section or applicable state or federal law, then to be recertified an applicant must provide proof of active licensure or certification consistent with the requirements of section (6)(a)(9).

11) Revisions. Any changes to the use or property desired by the applicant or identified by the City, state, or any certifying or licensing entity after approval or during the recertification process which require an additional reasonable accommodation or amendment to the original reasonable accommodation approval shall be processed as an amendment to the original approval and such amendment application shall follow the same application and review process set forth herein for an original reasonable accommodation request.

ARTICLE 9

DEFINITIONS

Reasonable Accommodation: A statutorily established method by which an individual who is disabled and/or handicapped (as those terms are defined in Title II of the Americans with

Disabilities Act and/or the Fair Housing Amendments Act, hereafter “disabled”), or a provider of services to the disabled qualifying for reasonable accommodations under the referenced statutes, can request a modification or alteration in the application of a specific Code provision, rule, policy, or practice, to them. The proposed accommodation sought by the disabled individual must be reasonable and necessary to afford such person an equal opportunity to use and enjoy housing.

Recovery Residence: 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.

Recovery Residence, Certified: A recovery residence that holds a valid certificate of compliance and is actively managed by a certified recovery residence administrator.