

## ORDINANCE NO. 25-267

### AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF HUNTSVILLE, ALABAMA

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The public welfare requiring it, and under authority granted by Section 11-52-78 of the Code of Ala. 1975, BE IT ORDAINED by the City Council for the City of Huntsville, Alabama, that the Zoning Ordinance of the City of Huntsville, Alabama, as adopted on the 21st day of March 1963, as amended, (“Zoning Ordinance”) is hereby further amended as follows:

**Section 1.** Amend Zoning Ordinance ARTICLE 3 - DEFINITIONS, Section 3.1 – Interpretation, to modify the following definitions to read as follows:

Boarding House – A boarding house is a building, other than a hotel, motel, or bed and breakfast, where, for compensation, individual rooms and board (meals) are provided by a resident or non-resident landlord/operator for up to ten (10) transient or non-transient, related or unrelated individuals, and in which the boarders share common areas, and where the landlord/operator may supply some services such as laundry and cleaning services.

Family -- A family consists of:

- (i) An individual living alone as a single housekeeping unit;
- (ii) Any number of related individuals who are connected by the following established and verifiable relations: blood within the fourth degree of consanguinity (first cousins), marriage, adoption, foster care, or guardianship, and who are living together as a single housekeeping unit;
- (iii) Two unrelated individuals in a domestic relationship who have made a commitment to share their lives and where each party is responsible for the basic material needs of the other, along with their respective relations who are connected by the following established and verifiable relations: blood within the fourth degree of consanguinity, marriage, adoption, foster care, or guardianship, and who are living together as a single housekeeping unit; or
- (iv) Up to four unrelated individuals living together as a single housekeeping unit.

Rooming House – A rooming house is a building where, for compensation, individual rooms are provided by a resident or non-resident landlord/operator for up to ten (10) transient or non-transient, related or unrelated individuals, and in which the roomers

share common areas, and where the landlord/operator may supply some services such as laundry and cleaning services.

Transient – The term transient means an individual or family who is temporarily boarding, rooming, lodging, or otherwise staying in a place for a period of less than 180 continuous days. Where there is a legal arrangement, including a lease, that purports to have a term of 180 continuous days or more, but which has been negotiated to allow or allows for a shorter term in an attempt to evade the length-of-stay requirement, the individual or family shall nevertheless be treated as being engaged in a transient stay.

**Section 2.** Amend Zoning Ordinance ARTICLE 3 - DEFINITIONS, Section 3.1 – Interpretation, to add the following definitions:

Bed & Breakfasts – A bed & breakfast is a single-family dwelling operated as a transient lodging facility by a resident of the dwelling which provides overnight accommodations and morning meals to overnight guests for compensation.

Single housekeeping unit -- A single housekeeping unit is a household consisting of a non-transient individual, or a non-transient interactive group of individuals jointly occupying an abode, including joint access to and use of all common living areas, including living, kitchen, and eating areas within the abode. A single housekeeping unit may also be comprised of domestic servants; one professional caregiver at any one time; and gratuitous, temporary guests of a resident. The term does not include transients, occupants of a boarding house or rooming house, or occupants that act as separate roomers or boarders.

**Section 3.** Amend Zoning Ordinance ARTICLE 73 – SUPPLEMENTARY REGULATIONS AND MODIFICATIONS, Section 73.1 – Uses: Accessory and Temporary, Subsection 73.1.1 – Accessory Uses, Subparagraphs (1) and (2) to read as follows (with the remainder of that Subsection 73.1.1 remaining in full force and effect):

**73.1. Uses; accessory and temporary.**

**73.1.1. Accessory uses.**

- (1) *Definitions; examples.*
  - (a) An accessory use is defined as a use on the same lot with, and of a nature customarily incidental and subordinate to, the principal use permitted on such lot.
  - (b) This definition includes, but shall not be limited to, such customary home occupations as the offices of a doctor, lawyer, architect, notary, artist, and dressmaker.
  - (c) In the case of a dwelling unit occupied by no more than two adult residents, the definition also includes the taking in by a resident, for compensation, of not more than three (3) non-transient boarders (meals included) or three (3) non-transient

roomers; provided, however, that the term does not include individuals who occupy the space as an incident of employment therein.

- (2) Accessory uses permitted in residential districts must adhere to the following requirements:
- (a) Except in the case of the taking in of boarders or roomers, accessory uses shall be engaged in the main building only and shall be conducted only by one person resident in said building.
  - (b) In the case of the taking in of boarders or roomers, the accessory use shall be engaged in the main building only, shall be conducted only by an individual actually residing in the dwelling unit, and shall only be allowed where the dwelling unit does not have a second kitchen (see Section 10.6 of this Zoning Ordinance concerning second kitchens).
  - (b) The floor area designed or used for such accessory use shall not exceed the following percentages of total floor area of the dwelling unit:
    - Twenty percent for residence 1 and 1-A districts. In the case of roomers and boarders, only their private rooms shall be counted toward the maximum percentage.
    - Twenty-five percent for residence 1-B district. In the case of roomers and boarders, only their private rooms shall be counted toward the maximum percentage.
    - Thirty percent for residence 2 and 2-A districts. In the case of roomers and boarders, only their private rooms shall be counted toward the maximum percentage.
    - Thirty-five percent for residence 2-B district. In the case of roomers and boarders, only their private rooms shall be counted toward the maximum percentage.
  - (c) There shall be no external evidence of such accessory use or customary home occupation except one sign, not larger than two square feet in area, may be displayed provided such sign must be directly attached to the residence and must not be illuminated.

**Section 4.** Amend Zoning Ordinance to add the following ARTICLE 78 – COMMUNITY HOMES:

**78.1 Definitions; purpose.**

**78.1.1 Definitions.** The following words, terms, and phrases, when used in this Article, shall have the following meanings:

ADA – ADA means Title II of the Americans with Disabilities Act (42 U.S.C. Section 12131, *et seq.*, as amended.

Community Home -- A community home is a living arrangement for unrelated individuals with disabilities who are in need of the mutual support furnished by each

other as well as the support services, if any, provided by the staff of the community home, and that is subject to each of the following conditions:

- (1) The inhabitants may be self-governing or supervised by a sponsoring entity or its staff, which provides habilitative or rehabilitative services, related to the inhabitants' disabilities;
- (2) A community home seeks to emulate a biological family and integrate them into the surrounding community, with its primary purpose is to provide shelter in a family-like environment for individuals with disabilities; treatment is incidental as in any home;
- (3) Supportive inter-relationships between inhabitants are an essential component;
- (4) Like a family, the home must operate as a single housekeeping unit, except that only in the case of a transitional community home can the occupancy be transient; and
- (5) A community home is a detached building located on a single lot that is designed as a separate abode, and may include an accessory structure.

There are three types of community homes – an essential community home, a group community home, and a transitional community home. The term does not include congregate housing for unrelated individuals who are not disabled, correctional facilities (see Section 73.22 of this Zoning Ordinance), housing for sex offenders, or housing for individuals who pose a direct threat as defined by the FHA or ADA.

Disability – The term disability shall have the meaning ascribed to it in the FHA or ADA . The term shall not encompass current use of illegal drugs, current drug or alcohol addiction, or the current abuse of legal drugs or alcohol.

Essential Community Home – An essential community home is a type of community home that is a non-transient living arrangement for a relatively small number (see Section 78.3(a)(2)) of unrelated individuals with disabilities as inhabitants, with no cap on how long a person may live in the home. The length of the stay shall be at least 180 continuous days.

FHA – FHA means the Fair Housing Act (42 U.S.C. 3601, *et seq.*, as amended

Group Community Home -- A group community home is a type of community home that is a non-transient living arrangement for a moderate number (see Section 78.3(b)(2)) of unrelated individuals with disabilities as inhabitants, with no cap on how long an individual may live in the home. The length of the stay shall be at least continuous 180 days.

Transitional community home -- A transitional community home is a type of community home that is a transient living arrangement for no more than fourteen (14) unrelated individuals with disabilities with a cap on the length of stay that is less than 180 continuous days.

**78.1.2 Purpose.**

(a) In order to preserve the integrity and character of residential communities the City has found it necessary to limit to four (4) the number of unrelated individuals that constitute a family. In recognition of the therapeutic need of unrelated individuals with disabilities, who cannot reasonably meet the definition of a family, to live together in a family-like setting, this Article is intended, in part, to accommodate that need by establishing three (3) types of community homes.

(b) This Article is designed to allow these community homes to locate in a residential neighborhood without impeding their goal to integrate into the community and without altering the residential character of the neighborhood which is so essential to the goal of community homes.

(c) In preparing this Article consideration has been given to a variety of resources, including Daniel Lauber, *Reforming State and Local Zoning for Community Residences for People With Disabilities and for Recovery Communities*. (River Forest, IL: Planning/Communications, July 2024).

**78.2 Spacing.** A community home shall not be within a 1000-foot radius of another community home, as measured between lot lines.

**78.3 Districts allowed; conditions.**

(a) *Essential community home.* An essential community home is allowed as a permitted use in any zoning district which allows single-family dwellings, subject to each of the following conditions:

(1) An essential community home shall be located in a detached home on a single lot, and the same density and other controls that apply to single-family detached dwellings shall apply to an essential community home, provided that where the home has staffing of more than one individual at any one time, at least one additional off-street parking space shall be required;

(2) The number of unrelated individuals with disabilities that live in the home shall not be greater than six (6); and

(3) Notwithstanding anything to the contrary in this Subsection (a), an essential community home shall not be allowed in a Planned Development Housing PD-H District

that existed prior to the adoption of this Article, a Research Park District, a Research Park West District, and a Research Park Applications District.

(b) *Group community home.* A group community home is allowed only in any zoning district which allows multiple-family dwellings, subject to each of the following conditions:

(1) A group community home shall be located in a detached home on a single lot, and the same density and other controls that apply to a single family detached dwelling shall apply, provided that where the home has staffing of more than one individual at any one time at least one additional off-street parking space shall be required;

(2) In the case of a Residence 2-A and a Residence 2-B, the number of unrelated individuals with disabilities that live in the home shall not be greater than ten (10), and in all other zoning districts in which the use is allowed the number of unrelated individuals with disabilities that live in the home shall not be greater than twelve (12); and

(3) Notwithstanding anything to the contrary in this Subsection (b), a group community home shall not be allowed in a Planned Development Housing PD-H District that existed prior to the adoption of this Article, a Residence 2-C District, or a Research Park Commercial District.

(c) *Transitional community home.* A transitional community home is allowed in any zoning district which allows boarding houses or rooming houses, subject to each of the following conditions:

(1) A transitional community home shall be located in a detached home on a single lot, and the same density and other controls that apply to a single family detached dwelling shall apply, except that the minimum number of off-street parking spaces shall be at least four (4);

(2) In the case of a Residence 2-B District, the number of unrelated individuals with disabilities that live in the home shall not be greater than ten (10), and in all other zoning districts where the use is allowed the number of unrelated individuals with disabilities that live in the home shall not be greater than fourteen (14); and

(3) Notwithstanding anything to the contrary in this Subsection (c), a transitional community home shall not be allowed in a Planned Development Housing PD-H District that existed prior to the adoption of this Article.

**78.4 Approvals.** A community home must first make application, on forms provided by the City, for approval from the Zoning Administration Office for the use before it is commenced. Approval will be given if the proposed use meets the provisions of this Zoning Ordinance.

**78.5 Existing nonconforming uses.** The provisions of Article 74 of this Zoning Ordinance governing nonconformities shall apply to the nonconformities created by this Article. Persons claiming non-conforming status shall have the burden of proving same.

**78.6 Reasonable accommodation.**

**78.6.1 Reasonable accommodation procedure.**

(a) *Purpose.* The purpose of this Section is to implement a procedure for processing requests for reasonable accommodation for persons with disabilities as provided by the federal FHA and ADA. For purposes of this section, a "disabled" person is an individual that qualifies as disabled or handicapped under the FHA or ADA. Any person who is disabled (or qualifying entities) may request a reasonable accommodation, pursuant to the procedures set out in this section.

(b) *Application.* A request for reasonable accommodation under this section shall be upon a written reasonable accommodation request form maintained by the Zoning Administration Office and submitted to the Zoning Administration Office. The reasonable accommodation request form shall contain such questions and requests for information as are necessary for processing the reasonable accommodation request. The applicant shall sign the form and provide contact information and background regarding the proposed use, including a specific request detailing exactly what deviations are being requested from any applicable zoning rule; in the case of an applicant who is not the legal owner of the premises, the legal owner must also sign and acknowledge the form and join in the application. The reasonable accommodation request form shall be substantially in the form set forth in Subsection (f) below.

(1) *Confidential information.* Should the information provided by the disabled individual 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 in writing that the City, to the extent allowed by law, treat such medical information as confidential information of the disabled individual ("Protected Information"). The City shall thereafter endeavor to provide written notice to the disabled individual, or their representative, of any request received by the City for disclosure of the "Protected Information". 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 Protected Information, 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. Nothing herein,

shall be construed to prevent the City from disclosing the Protected Information in the administration and enforcement of this Article.

(2) *Fee.* There shall be no fee imposed by the City in connection with a request for reasonable accommodation under this section, and the City shall have no obligation to pay a requesting party's attorney's fees or costs in connection with the request.

(3) *City assistance.* The City shall provide such assistance and accommodation as is required pursuant to FHA and ADA in connection with a disabled person's request for reasonable accommodation, including, without limitation, assistance with reading application questions, responding to questions, completing the form, and appearing at a hearing, etc., to ensure the process is accessible.

(c) *Findings for reasonable accommodation.* In determining whether the reasonable accommodation request shall be granted or denied, the requesting party shall be required to establish that he/she or the occupants of the housing for which this request is made are protected under the FHA or ADA by demonstrating that he/she or the occupants of the proposed housing are people with disabilities. In addition, the requesting party shall demonstrate that 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 following factors shall be considered, among other relevant factors including judicial interpretation of disability law:

(1) The requesting party shall prove why the accommodation is needed and why any available alternatives are insufficient or inapplicable under the circumstances.

(2) If a request for reasonable accommodation is submitted by an operator of a community home that provides housing to disabled individuals, the operator shall be required to establish that the operator is qualified to provide such housing to disabled individuals and the legal owner of the premises shall be required to agree to the use and nature of the use requested.

(3) The requesting party shall demonstrate that the requested accommodation is both reasonable and necessary (as interpreted by the courts) to afford the disabled individuals served by the housing an equal opportunity to use and enjoy the housing, including that the proposed accommodation is therapeutically necessary and actually alleviates the effects of a handicap or disability, with a site-specific assessment in regard to the particular property in that regard.

(4) The requesting party shall demonstrate that the proposed accommodation does not constitute a fundamental alteration of the City's zoning scheme or other

City program or policies, that it does not impose an undue financial or administrative burden on the City, and that it does not pose a direct threat as defined by the ADA and FHA.

(d) *Zoning Administrator's Decision.*

(1) The Zoning Administrator's decision shall be based on the information provided by the applicant and such other information that he deems relevant to the determination, and, as to the specific accommodation provided, shall be as determined by the Zoning Administrator. In making a decision, the Zoning Administrator shall not be bound to evaluate only the specific accommodation requested but shall have the right to identify viable alternative accommodations that may satisfy the applicant's goals and federal law. In making a decision, the Zoning Administrator shall comply with federal law and shall be bound to ensure that the accommodation requested is reasonable, does not pose an undue financial or administrative burden, does not present a direct threat as outlined in the ADA and FHA, and does not work a fundamental alteration of the City's zoning scheme or other City programs and policies.

(2) The Zoning Administrator shall issue a written determination within thirty (30) calendar 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, or impose conditions upon the grant of the request, or (3) deny the request, in accordance with federal law. Any such denials shall be in writing and shall state the grounds therefor.

(3) 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 or hand delivery, receipt signed by the recipient.

(e) *Administrative review not available.* The Zoning Administrator in the reasonable accommodation determination is not enforcing or interpreting the Zoning Ordinance, but is complying with independent federal law that requires reasonable accommodations be made. Accordingly, an administrative review of his decision by the Board of Zoning Adjustment is not available.

(f) *Request form for reasonable accommodation.*

(1) Contents of reasonable accommodation request form:

a. Name and contact information, including mailing address, of the applicant, and name and contact information, including mailing address, of the legal owner of the property at issue;

- b. Information regarding property at which reasonable accommodation is requested, including the address and legal description of such location as well as ownership of the subject property;
- c. Describe the accommodation and the specific regulation(s) or procedure(s) from which accommodation is sought;
- d. Reasons the accommodation may be necessary for the requesting party 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;
- e. Describe qualifying disability or handicap;
- f. 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;
- g. Proof of satisfactory, fire, safety, and health inspections as may be required by applicable state and city laws;
- h. Signature of requesting party and, if different from the legal owner, the legal owner's signature as well;
- i. If there will be an on-site supervisor or manager, provide the name and contact information (phone and email) for each;
- j. Date of request;
- k. Owner's consent for application; and
- l. The rules and practices governing how the home is operated; and
- m. Such other information as may be reasonably required by the Zoning Administrator.

(2) In the case of an incomplete application, the Zoning Administrator shall identify the items lacking and the applicant shall have 20 days thereafter to provide the information. Failing therein, the application shall be deemed to be withdrawn by the applicant without further action being required by the City.

(h) *Expiration of approvals.* Approvals of requests for reasonable accommodation shall expire within six (6) months if not implemented.

(i) Any accommodation granted under this Section shall be considered personal and shall not run with the land.

(j) *Renewal.* All reasonable accommodation requests that have been approved (including approval with conditions) and implemented by the requesting party, are valid for no more than one (1) year and shall require annual renewal each year on or before April 1<sup>st</sup>

to determine if the basis for the approval (including approval with conditions) continues to be met. The renewal process shall be the same as for an initial application and the City shall have the right to pose additional questions to determine whether an accommodation is needed and the nature and scope of the accommodation needed.

**Section 5.** The severability provisions of Article 93 of the Zoning Ordinance shall apply to this ordinance.

**Section 6.** This ordinance shall become effective upon its adoption and publication.

**ADOPTED** this the 12th day of June, 2025.

/s/ John Meredith  
President of the City Council  
of the City of Huntsville, Alabama

**APPROVED** this the 12th day of June, 2025.

/s/ Tommy Battle  
Mayor of the City of Huntsville,  
Alabama