

**CITY OF DAYTON, KENTUCKY
ORDINANCE NO. 2026-3**

**AN ORDINANCE AMENDING SECTIONS §158.01
THROUGH §158.12 OF CHAPTER 158 OF THE CITY OF
DAYTON, KENTUCKY, CODE OF ORDINANCES
RELATING TO REASONABLE ACCOMMODATIONS IN
RESIDENTIAL NEIGHBORHOODS**

WHEREAS, the City of Dayton, Kentucky (“City”) enacted an ordinance relating to Reasonable Accommodations in Residential Neighborhoods in its City Code of Ordinances (“Code”) and set forth rules and regulations for enforcement of this ordinance; and

WHEREAS, the Kentucky General Assembly subsequently enacted a statute regulating sober-living facilities, which is covered under this ordinance, and City wishes to amend Chapter 158 of the Code to reflect this legislation and to comply with it.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE BOARD OF COUNCIL OF THE CITY OF DAYTON, CAMPBELL COUNTY, KENTUCKY, AS FOLLOWS:

Code Chapter 158, titled “Reasonable Accommodations in Residential Neighborhoods,” of the City Code is hereby amended as follows, with words being deleted ~~lined through~~ and words being added underlined as follows:

§ 158.01 DEFINITIONS.

For the purposes of this chapter, the definitions shall apply unless the context clearly indicates or requires a different meaning.

“CITY.” ~~The City of Dayton, Kentucky.~~

“DISABLED.” A person with disabilities. For purposes of this chapter, the term “DISABLED” shall have the same meaning as set forth in the Federal Fair Housing Act and the American with Disabilities Act, i.e., is an individual who has a physical or mental impairment that limits one (1) or more of the major life activities of such individual, is regarded as having such impairment, or has a record of impairment. While a person recovering from substance abuse is considered a person with a disability under 42 U.S.C. § 3602(h), a person who is currently engaged in illegal use of a controlled substance is not.

“FAIR HOUSING LAWS.” The Federal Fair Housing Amendments Act of 1988 (“FHA”) and the provisions of KRS 344.600 et seq., as may be amended from time to time (collectively, “fair housing laws”).

“GROUP HOME.” A residential facility for the care of seven (7) or fewer unrelated individuals living in a single ~~housekeeping unit~~ dwelling unit and recognized as disabled individuals under the Fair Housing Act and American with Disabilities Act, or even fewer residents based on maximum occupancy restrictions for residential dwelling units established by the International Property Maintenance Code. A sober-living facility shall be considered as a “GROUP HOME” for all purposes consistent herewith.

“OPERATOR.” An individual or business entity, whether for profit or non-profit, which provides residential services at a group home.

“REASONABLE ACCOMMODATION.” The act of making a dwelling unit or housing facility(ies) readily accessible to and usable by a person with disabilities, through the removal of constraints in the city’s building, zoning, land use, permit, and processing procedures. All accommodations may not be reasonable, and the reasonableness of a request will be determined by the city.

“SOBER-LIVING FACILITY.” A single-family dwelling unit used by individuals recovering from a drug and/or alcohol addiction, considered as a disabled individual under state or federal law. A “SOBER-LIVING FACILITY” shall not provide on-site supportive services to residents, including the following: mental health services; clinical rehabilitation services; social services; medical, dental, nutritional or other healthcare services; financial management services; legal services; vocational services; and other similar supportive services. See “GROUP HOME.”

§ 158.02 PURPOSE.

(A) Fair housing laws impose an affirmative duty on local governments to make reasonable accommodation in their building, land use, and zoning regulations and practices when such accommodation may be necessary to afford disabled individuals an equal opportunity for housing.

(B) In furtherance of the purposes of the fair housing laws, this chapter is intended to preserve the residential character of single-family residential neighborhoods; ensure that group homes, including sober-living facilities, are actually entitled to reasonable accommodation; limit the secondary impacts of group homes, including sober-living facilities, by reducing noise and traffic; preserve safety and provide adequate on-street parking in residential areas; provide an accommodation for disabled individuals that is reasonable and actually bears some resemblance to the opportunities afforded nondisabled individuals to use and enjoy a dwelling in a residential neighborhood; and to provide a living environment that will enhance the opportunity for the disabled to be successful in their programs. Pursuant to fair housing laws, this chapter also is created to provide disabled individuals with reasonable accommodation in rules, policies, practices, and procedures to ensure equal access to housing and to facilitate the development of housing for individuals with such recognized disabilities when these disabilities may act as a barrier to fair-housing opportunities.

(C) This chapter establishes a procedure for making requests for reasonable accommodation in building, land use, and zoning regulations, policies, practices, and procedures to comply fully with the intent and purpose of fair housing laws. Unless a group home has been granted reasonable accommodation as provided in this chapter, group homes shall comply with all building, land use, and zoning regulations, policies, practices, and procedures applicable to the zoning classification in which they are located.

§ 158.03 APPLICABILITY.

(A) Reasonable accommodation within the context of land use and zoning regulations means providing individuals with recognized disabilities some flexibility in the application of land use and zoning regulations, policies, practices, and procedures, or even waiving certain requirements, when it is necessary to eliminate barriers to housing opportunities.

(B) All sober-living facilities shall comply with KRS § 222.502, which requires these facilities to be certified by a certifying organization and proof of this certification is provided to the Kentucky Cabinet for Health and Family Services.

§ 158.04 NOTICE TO THE PUBLIC OF AVAILABILITY OF ACCOMMODATING PROCESS. CERTIFICATION AND ZONING PERMIT REQUIRED

(A) The operator of a residential dwelling unit that will be used as a sober-living facility shall obtain a zoning permit from the City for this use, and if the property owner is different than the operator, then the property owner shall also be a signatory on an application for a zoning permit. Before a zoning permit is granted by the City to an operator of the sober-living facility, the operator shall submit to the City proof of the certification required under KRS § 222.502 and evidence that this certification was provided to Kentucky Cabinet for Health and Family Services.

~~—Notice of the availability of reasonable accommodation shall be prominently displayed and provided to requesting individuals, advising the public of the availability of the procedure for eligible applicants.~~

(B) The provisions set forth in this Code Chapter are intended to comply with KRS § 222.502, and if any conflict exists between this Chapter and KRS § 222.502, the provisions of the state statute shall control over this Chapter.

§ 158.05 APPLICATION FOR REQUESTING REASONABLE ACCOMMODATION.

(A) Forms for requesting reasonable accommodation for a group home shall be available in the Dayton Code Enforcement Department.

(B) An application for reasonable accommodation may be made by any disabled individual or his or her representative; the owner of the real property intended for use as a group home; or, the owner/operator of an entity providing residential services at the location.

(C) Requests for reasonable accommodation shall be in writing and provide the following information:

(1) Name, address, phone number, and email address of the applicant requesting reasonable accommodation;

(2) Name, address, phone number, and email address of the house manager who is responsible for the day-to-day operation of the facility, if any;

(3) Address of the property for which accommodation is requested;

(4) Name, address, phone number, and email address of the property owner(s), if not the applicant;

(5) If the operator is not the property owner, then the operator must provide a copy of any lease agreement between applicant and owner as well as written approval from the property owner to operate a group home at the property location;

(6) Detailed description of the requested accommodation with reference to any known regulation, policy, or procedure from which relief is sought;

(7) Reason that the requested accommodation may be necessary for disabled individual(s) to use the dwelling;

(8) Copy of the group home rules and regulations, including intake procedures and relapse policy, if applicable;

(9) Blank copy of all forms that residents or potential residents are required to complete;

(10) An affirmation by the applicant or owner/operator that only disabled residents shall reside at the group home; and

(11) Copy of any agreement between applicant and/or owner/operator and/or property owner setting forth or concerning any fee arrangement or financial reimbursement applicable to each resident of the group home.

(12) The applicant or owner/operator shall be responsible for filing with the city within thirty (30) days, any updates or changes to policies, procedures, ownership, or operating entity.

(13) Any information obtained by the city shall be considered confidential, shall be retained in a manner so as to respect the privacy rights of the applicant, and shall not be made available for public inspection unless otherwise required by law.

(14) A request for reasonable accommodation to the regulations, policies, practices and procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation shall not affect an individual's obligations to comply with other applicable regulations not at issue in the requested accommodation.

(15) If an applicant needs assistance in making the request for reasonable accommodation, it shall be provided to ensure that the process is properly undertaken.

(16) An applicant may seek relief from the strict application of the provisions of this chapter by submitting such request in writing to the Code Enforcement Director (hereafter "Director") setting forth specific reasons as to why accommodation over and above the provisions set forth herein is necessary.

(17) No fee will be charged for an application to obtain a reasonable accommodation under this chapter.

§ 158.06 GROUNDS FOR REASONABLE ACCOMMODATION.

In determining whether to grant a reasonable accommodation, the Director shall consider the totality of the following factors:

(A) The property will be used by an individual with a recognized disability protected under the fair housing laws;

(B) Special needs created by the recognized disability;

(C) Potential benefit that can be accomplished by the requested modification;

(D) Potential impact on properties within the vicinity;

(E) Physical attributes of the property and dwelling structure;

(F) Alternate accommodations that may provide an equivalent level of benefit;

(G) Whether the requested accommodation would impose an undue financial or administrative burden on the city;

(H) Whether the requested accommodation would require a fundamental alteration in the nature of a city function or service; and

(I) Whether granting the request would be consistent with the city's Comprehensive Plan.

§ 158.07 DISTANCE REQUIREMENT.

No group home shall be located within six hundred fifty (650) feet, as measured from the closest property lines, of any other group home.

§ 158.08 INSURANCE AND MORTGAGE NOTIFICATION REQUIREMENT.

(A) The owner or operator of any group home shall be required to maintain and provide proof to the city of liability insurance coverage in the amount of three hundred thousand dollars (\$300,000.00) per person and one million dollars (\$1,000,000.00) per occurrence, for personal injury to persons or property damage.

(B) The owner or operator shall be required to provide proof to the city that any mortgage lien holder on the subject property has been notified of the use of the premises as a group home.

§ 158.09 REVIEWING AUTHORITY.

(A) ~~Upon proper application made~~ After presenting proof of the certification required under KRS 222.502 and an approved zoning permit for the dwelling unit in which the sober-living facility will be located, requests the application requesting for reasonable accommodation shall be reviewed and approved by the Director of Code Enforcement using the criteria set forth herein.

(B) The Director shall issue a written decision on a request for reasonable accommodation within thirty (30) days of the date of the application, and he or she may either grant, grant with

modifications, or deny a request for reasonable accommodation in accordance with the required findings set forth below.

(C) If necessary to reach a determination on the request for reasonable accommodation, the Director may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request for additional information is made, the thirty (30) day period to issue a decision shall be stayed until the applicant responds to the request.

§ 158.10 REQUIRED FINDINGS.

The written decision to grant, grant with modifications, or deny a request for reasonable accommodation shall be consistent with fair housing laws and based on the following factors:

(A) Whether the housing, which is the subject of the request for reasonable accommodation, will be used by an individual with a recognized disability as defined herein and protected under fair housing laws.

(B) Whether the requested accommodation is necessary to make housing available to an individual with a recognized disability protected under the fair housing laws.

(C) Whether the requested accommodation would impose an undue financial or administrative burden on the city.

(D) Whether the requested accommodation would require a fundamental alteration in the nature of the city's land use or zoning regulations, building codes, or related programs adopted by the city, including but not limited to Section 404.4, "Bedroom and living room requirements," and Section 404.5, "Overcrowding," of the International Property Maintenance Code.

(E) The requested accommodation will not result in a direct threat to the health, safety or welfare of other individuals or cause physical damage to the property of others.

(F) Whether the requested accommodation is necessary to make facilities of a similar nature economically viable in light of the particularities of the relevant market and market participants.

(G) Whether the existing supply of facilities of a similar nature and operation in the community is already sufficient to provide individuals with a recognized disability an equal opportunity to live in a residential setting.

(H) The city shall consider the following factors upon any request for accommodation:

(1) Whether the requested accommodation would fundamentally alter the character of the neighborhood;

(2) Whether the requested accommodation would result in a substantial increase in traffic or congestion in the neighborhood, create insufficient on-street parking, or increase noise in the neighborhood;

(3) Whether granting the requested accommodation would substantially undermine any express purpose of the city's Comprehensive Plan; and

(4) Whether the requested accommodation would create an institutionalized environment due to the number of and distance between facilities that are similar in nature or operation.

§ 158.11 WRITTEN DECISION ON THE REQUEST FOR REASONABLE ACCOMMODATION.

(A) The Director shall render a written decision on the request for reasonable accommodation within thirty (30) days of receipt. The written decision on the request for reasonable accommodation shall explain in detail the basis of the decision, including the Director's findings on the criteria set forth herein. The written decision shall give notice of the applicant's right to appeal and request reasonable accommodation in the appeals process, as set forth below. The notice of decision shall be sent to the applicant by certified mail.

(B) The written decision of the Director shall be deemed final unless an applicant appeals the decision to the ~~Board of Adjustment~~ city Code Enforcement Board within the prescribed time period.

(C) In the event the Director fails to render a written decision within the prescribed period of time, the request shall be advanced to the City ~~Manager~~ Administrator for final determination, who shall make such written determination within ten (10) days thereof. In the event a written determination is not issued within forty (40) days of the request, it shall automatically be deemed as granted.

(D) While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.

(E) The Director shall be required to maintain records of requests for reasonable accommodation or modification and the response thereto, including final written decisions.

§ 158.12 APPEALS.

(A) Within thirty (30) days of the date of the Director's or City Administrator's written decision, whichever shall apply, an applicant may appeal an adverse decision. ~~Appeals from the adverse decision shall be made~~ in writing to the ~~Board of Adjustment~~ city Code Enforcement Board within the prescribed period of time.

(B) If an applicant timely requests assistance in filing an appeal, the city will assist the applicant to ensure that the applicant properly undertakes the appeals process.

(C) All appeals shall contain a statement of the grounds for the appeal.

(D) Nothing in this procedure shall preclude an aggrieved individual from seeking any other state or federal remedy available.

PASSED by City Council of the City of Dayton, Campbell County, Kentucky assembled in regular session.

First Reading: April 14, 2026

Second Reading: _____

MAYOR BEN BAKER

ATTEST:

TRISTIAN KLEIN
CITY CLERK/TREASURER

CERTIFICATION

I, the undersigned, do hereby certify that I am the duly qualified and acting Clerk/Treasurer of the City Council of Dayton, Kentucky (the "City"), and as such I further certify that the foregoing Ordinance is a true, correct, and complete copy of the Ordinance duly adopted by the City Council of the City after two readings on the dates referenced above, and has been signed by the Mayor and is now in full force and effect, all as appears from the official records of the City in my possession and under my control.

IN WITNESS WHEREOF, I have hereunder set my hand this _____ day of _____
2026.