

3-42: RESIDENTIAL FACILITIES FOR PERSONS WITH DISABILITIES

A. Purpose:

The Purpose of this section is to comply with Utah State law (Sec. 17-27-605 Utah Code Annotated 1953 as amended), and to avoid discrimination in housing against persons with a disability pursuant to the Utah Fair Housing Act and the federal Fair Housing Act as interpreted by courts whose decisions are binding in Utah.

B. Permitted Uses:

Permitted Uses. A residential facility for persons with a disability shall be issued a permit by the Zoning Administrator as a permitted use in the residential zones identified by this ordinance (RE: section 2-2-B-149) if all of the standards of this section are met. For treatment centers or facilities which have functions other than those strictly residential in nature; or which otherwise do not meet the standards below, applicants are referred to the conditional uses approvable in the various zoning districts in the county.

2. Termination. A use permitted by this section is nontransferable and shall terminate if:

- a. the facility is devoted to a use other than a residential facility for persons with a disability, or;
- b. any license or certification issued by the Utah Department of Health or the Department of Human Services for such facility terminates or is revoked, or
- c. the facility fails to comply with the requirements set forth in this section.

C. Development Standards

The development standards set forth in this section shall apply to any residential facility for persons with a disability.

1. Building, Safety and Health Regulations. The residential facility for persons with a disability shall comply with building, safety, and health regulations applicable to similar structures.

- a. All requirements for minimum lot area, lot width, building setback, frontage, driveway access, dwelling size, roof pitch, eave length, building height, re-vegetation of cuts and fills, water supply, sewage disposal, and all other requirements applicable to one family dwellings shall be met by a residential facility for persons with a disability, unless a greater or more strict standard is required by health codes, state building codes, state fire codes, or applicable county ordinances.
- b. The facility shall comply with off-street parking requirements as set forth in section 3-14 of the Utah County Zoning Ordinance.
- c. Any sign identifying the residential facility for persons with a disability shall meet the size, lighting, location, setback, and other standards for a name plate.

2. Separation Required. No residential facility for persons with a disability shall be established or maintained within two thousand five hundred (2,500) feet, measured in a straight line between the closest lot or parcel line of the subject facility, and the closest lot or parcel line of any of the following facilities:

- a. a residential facility for persons with a disability; or
- b. a residential treatment center; or
- c. a youth group home.

3. No Dangerous Persons Permitted. No residential facility for persons with a disability shall be made available to an individual whose occupancy would:

- a. constitute a direct threat to the health or safety of other individuals, or
- b. as a result in substantial physical damage to the property of others.

4. Controlled Substance Conviction. Pursuant to 42 U.S.C. §3607(b)(4), no residential facility for persons with a disability shall be made available to a person who has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 802 of Title 21 of the United States Code.

5. License and Certification. Prior to occupancy of any residential facility for persons with a disability, the person or entity operating the facility shall:

a. provide to Utah County a copy of the licenses or certifications as issued by the Utah Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities, Utah Code Annotated 1953, as amended; or by the Utah Department of Health under Title 26, Chapter 21 Utah Code Annotated 1953, as amended, Health Care Facility Licensing and Inspection Act, or their successor statutes, as a residential facility for persons with a disability; and

b. certify in a sworn statement that no person will reside or remain in the facility whose occupancy would:

- (i) constitute a direct threat to the health or safety of other individuals, or
- (ii) result in substantial physical damage to the property of others.

6. Occupancy. The number of clients or residents in a residential facility for persons with a disability, excluding the non-residing staff members, shall be no greater than two-and-one half times the median household size for the Utah County (Provo-Orem) Standard Metropolitan statistical area of the most recently published United States Decennial Census.

D. Reasonable Accommodation:

1. Reasonable Accommodation Required. None of the requirements of this section shall be interpreted to limit any reasonable accommodation necessary to allow the establishment or occupancy of a residential facility for persons with a disability.

2. Application. Any person or entity wanting a reasonable accommodation shall make application therefore to the Utah County Zoning Administrator and shall articulate in writing the nature of the requested accommodation and the basis for the request.

3. Decision. The Utah County Zoning Administrator shall render a decision on each application for a reasonable accommodation. The decision shall be based on evidence of record. The Zoning Administrator may approve a reasonable accommodation request, in whole or in part, if the Zoning Administrator finds all of the following.

a. that the requested accommodation will not undermine the legitimate purposes of existing zoning regulations notwithstanding the benefit that the accommodation would provide to a person with a disability; and

b. that, but for the accommodation, one or more persons with a disability likely will be denied an equal opportunity to enjoy housing of their choice; and

c. that the accommodation is the minimum amount necessary to provide one or more persons with a disability an equal opportunity to enjoy housing of their choice.

4. Appeal. The decision of the Zoning Administrator on the request for reasonable accommodation may be appealed to the Board of Adjustment in the manner provided for appeals of decisions of the Zoning Administrator in applying the Zoning Ordinance, as set forth in Section 7-13-A and Section 7-19 of the Utah County Zoning Ordinance.