

CITY OF BLUFFDALE, UTAH

Ordinance No. 2008-09

AN ORDINANCE AMENDING CHAPTERS 12.6.20, NC ZONE, AND 12.21 RESIDENTIAL FACILITIES FOR ELDERLY PERSONS OR PERSONS WITH A DISABILITY AND OTHER FACILITIES RELATING TO ASSISTED LIVING FACILITIES

WHEREAS the City has received an application for an amendment of Title 12 of the Bluffdale City Code, the Bluffdale City Land Use Ordinance, modifying Chapters 12.6.20, NC Zone, and 12.21, Residential Facilities for Elderly Persons or Persons with a Disability and Other Facilities; and

WHEREAS the Planning Commission held a public hearing, has reviewed the application, and has made a recommendation to the City Council concerning the proposed change to Title 12, the Bluffdale City Land Use Ordinance, and the City Council has found the proposed amendments to be consistent with the City's general plan; and

WHEREAS the proposed text amendment set forth herein has been reviewed by the Planning Commission and the City Council, and all appropriate public hearings have been held and public notice given in accordance with Utah law to obtain public input regarding the proposed revisions to the Subdivision Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLUFFDALE AS FOLLOWS:

Section 1. **Amendments of various sections of the zoning ordinance related to assisted living facilities.** Chapter 12.6.20, NC Zone, and Chapter 12.21 Residential Facilities for Elderly Persons or Persons with a Disability and Other Facilities of the Bluffdale City Land Use Ordinance, is hereby amended as shown on Attachment A.

Section 2. **Effective Date.** This Ordinance shall take effect upon publication or posting, or thirty (30) days after passage, whichever occurs first.

PASSED AND ADOPTED BY THE CITY COUNCIL OF BLUFFDALE CITY, STATE OF UTAH, THIS 10th DAY OF JUNE, 2008.

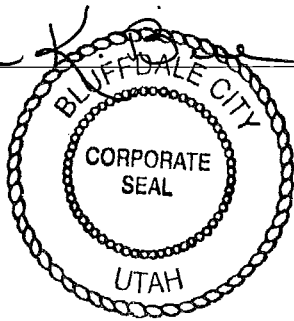
BLUFFDALE CITY

ATTEST:

Seddie K. [Signature]
Recorder

[Signature]
Mayor

[SEAL]



Voting by the City Council:

	“AYE”	“NAY”
Councilmember Chisholm	<u> x </u>	<u> </u>
Councilmember Flanigan	<u> x </u>	<u> </u>
Councilmember Kartchner	<u> x </u>	<u> </u>
Councilmember Lord	<u> </u>	<u> x </u>
Councilmember Maxwell	<u> x </u>	<u> </u>

ATTACHMENT A

12.6.20 NC Neighborhood Commercial Zone

- 12.6.20.1 Purpose and Zone Characteristics
- 12.6.20.2 Permitted, Conditional and Accessory Uses
- 12.6.20.3 Time of Operation
- 12.6.20.4 Lot Area
- 12.6.20.5 Lot Width
- 12.6.20.6 Lot Frontage
- 12.6.20.7 Setback Requirements
- 12.6.20.8 Projections into Setbacks
- 12.6.20.9 Building Height Requirements
- 12.6.20.10 Permissible Lot Coverage
- 12.6.20.11 Parking, Loading and Access
- 12.6.20.12 Project Plan Approval
- 12.6.20.13 Other Requirements

12.6.20.1 Purpose and Zone Characteristics

The NC Neighborhood Commercial Zone is established to provide an area in which the primary use of the land is for commercial and service uses that will accommodate the daily convenience needs of the surrounding residential neighborhoods. The zone is intended to be located within, and integrated into, the residential neighborhoods in a manner that will create a minimum of detriment, hazard, or inconvenience to surrounding residential areas. Each commercial neighborhood use shall be within convenient walking distance from the surrounding residential area and shall encourage and accommodate for pedestrian access.

The intent of the NC zone is to encourage compatible neighborhood market uses to be incorporated within a neighborhood so as to discourage residents from having to drive into the commercial centers for day to day necessities. General uses prohibited in the NC zone include normal intensity retail, assembly, warehousing, marketing or other similar uses.

12.6.20.2 Permitted, Conditional and Accessory Uses

Permitted Uses

The following land use types are permitted uses in the NC Neighborhood Commercial Zone. Unless specifically listed, any other use is not a permitted use in the zone. Uses listed as conditional or accessory uses are allowed in the zone only in accordance with the criteria established in this ordinance.

1. Local retail businesses primarily intended to serve the immediate neighborhood, provided that no one use shall exceed five thousand (5,000) square feet of floor area, including the following:

- a. Grocery, fruit, or vegetable store; meat market.
- b. Bakery
- c. Drugstore
- d. Hardware store
- e. Restaurant (which may include the sale of alcoholic beverages in compliance with State law), café or soda fountain, but not including entertainment, dancing, bars or taverns, or fast-food.

2. Local service business primarily intended to serve the immediate neighborhood, including the following:

- a. Barber or beauty shop.
- b. Personal service establishments
- c. Clothes cleaning and laundry pickup stations, laundromat, coin-operated dry cleaning establishment.
- d. Offices of physicians, dentists, optometrists, chiropractors, accountants, attorneys, and other similar offices.
- e. Tailor, dressmaker.
- f. Travel agencies
- g. Financial, insurance, and real estate services
- h. Business services
- i. Watch, clock, and jewelry repair and sales
- j. Video rental shops

Conditional Uses

The following list of land use types are allowed as conditional uses in the NC Zone. Unless specifically listed, any other use is not allowed as a conditional use in the zone. Each conditional use must be reviewed and approved in accordance with Section 12.13 of this ordinance.

1. Service and gasoline stations
2. Religious buildings and structures
3. Commercial day care centers and commercial schools
4. Fast food restaurants
5. Grocery store (greater than 5,000 square feet)
6. Convenience store with a gasoline service station
7. Temporary and seasonal uses in accordance with Chapter 12.11
8. Public uses
9. Public or private utilities and maintenance facilities
10. Assisted Living Facility

Accessory Uses

The following list of land use types are allowed as accessory uses in the NC Zone. Unless specifically

listed, any other use is not allowed as an accessory use in the zone. Any accessory use must be clearly incidental to a permitted or conditional use of the property. Accessory uses are not allowed without the approval of a permitted or conditional use of the parcel unless otherwise noted in this Section.

3. Storage facilities for machinery and equipment as an accessory use to a permitted or conditional use.

12.6.20.3 Time of Operation

External activities which may result in excessive noise (including deliveries, clean up, and other activities) may only be conducted within the hours of 6:00 a.m. to 10:00 p.m., local time.

12.6.20.4 Lot Area

There is no minimum lot area requirement in the NC Zone. However, the lot must be of sufficient size to assure compliance with the off-street parking standards in Chapter 12.4 herein.

The City may deny a commercial use on property where insufficient lot size or lot shape is such that it creates an illogical traffic circulation, or is not conducive to the intent of this ordinance. The City will encourage the consolidation of lots for commercial uses where odd-shaped and insufficiently-sized lots exist.

12.6.20.5 Lot Width

There shall be no minimum width requirement in the NC Zone, subject to the requirements of Section 12.6.20.3 of this Chapter.

12.6.20.6 Lot Frontage

There shall be no frontage requirement in the NC Zone, subject to the requirements of Section 12.6.20.3 of this Chapter.

12.6.20.7 Setback Requirements

The following minimum setback and build-to requirements shall apply in the NC Zone. Each setback is measured from the property line of the lot or parcel.

1. Front setback - Each lot or parcel in the NC Zone shall have a minimum front setback of twenty (20) feet.
2. Side setback –When located adjacent to compatible commercial zones, there shall be no side setback provided that each building satisfies the building code in effect at the time of approval and issuance of a Certificate of Occupancy,

except those structures constructed adjacent to residentially zoned areas. The side setback for structures constructed adjacent to residentially zoned areas shall be a minimum of twenty (20) feet.

- a. Side setback for corner lot - Each corner lot or parcel in the NC Zone shall have a minimum setback on all areas of road frontage of twenty (20) feet.
 - b. Side setback for driveway - Each side setback, when used for access to a garage, carport, or parking area shall have a minimum setback of twenty (20) feet and shall be hard surfaced.
 - c. Side setback for accessory building - The side setback for any permitted accessory building shall have a minimum side setback of fifteen (15) feet.
3. Rear setback - Each lot or parcel in the NC Zone shall have a minimum rear setback of twenty (20) feet unless it can be clearly demonstrated that a structure could be placed nearer the property line without causing a negative impact on adjacent property owners. An accessory building may be located within fifteen (15) feet of the rear property line.

12.6.20.8 Projections into Setbacks

The following structures may be erected on or projected into any required setback:

1. Fences and walls in conformance with all applicable City ordinances and resolutions.
2. Appropriate landscaping.
3. Necessary appurtenances for utility service.

The following structures may be erected on or projected into any required front or rear setback not more than four (4) feet, and into a side setback not more than two (2) feet:

1. Cornices, eaves, sills, buttresses, or other similar architectural features.
2. Awnings, decks, and planter boxes.

12.6.20.9 Building Height Requirements

A primary building or structure may not exceed thirty-five (35) feet in height, nor be lower than ten (10) feet in height, unless reviewed and approved by the Fire Chief and the City Council.

12.6.20.10 Permissible Lot Coverage

The sum total of all buildings and structures on any parcel in the NC Zone shall not be greater than fifty (50) percent of the total area of the parcel.

12.6.20.11 Parking, Loading and Access

Each project in the NC Zone shall satisfy the off-street parking requirements found in Chapter 12.4 herein. The spaces shall be hard surfaced with asphalt or concrete and be accessed from a public road by a hard surfaced, composed of asphalt or concrete, drive approach.

Loading and unloading areas shall be located in an area that can be secured from public access. Further, loading and unloading shall not occur on a public street.

12.6.20.12 Project Plan Approval

1. Any request for project plan approval in the NC Zone is subject to any and all applicable City resolutions and ordinances including the Subdivision Ordinance, Design Guidelines and Standard Specifications, and the Bluffdale City General Plan.
2. Projects in the NC Zone will be reviewed and approved in accordance with Section 12.8, Commercial Development, Site Plans, herein.
3. Projects in the NC Zone, including all buildings and landscaping, shall be compatible with and reflect the residential character of the surrounding residential districts. To achieve this goal, commercial buildings shall be designed with at least four (4) architectural features from the list below:
 - a. High-pitched roofs (with a pitch of 1:2 or steeper)
 - b. Arched doorways and windows
 - c. Decorative block or brick quoins
 - d. Columns, either brick, rounded wood, or colonial
 - e. Clock towers and other decorative vertical features
 - f. Keystones over doorways or windows
 - g. Decorative wood window shutters
 - h. Brick accent walls
 - i. Other features as approved by the City
4. Exterior surfaces
 - a. The lower wall shall be at least one-third the height of the first story. This lower portion of the wall shall consist of brick, stone, masonry, faux stone, tile, or decorative concrete.
 - b. The remaining portions of the exterior building shall consist of masonry, glass, brick, stucco, or treated wood (or wood-like products).

5. Design guidelines

The City Council may require specific design guidelines be employed in the project if it can be reasonably shown that the materials, colors, or elevations of the buildings could have a significant impact on the existing or future atmosphere of the area, and to improve compatibility. The design guidelines may include, but are not limited to, architectural controls, colors, materials, building mass, innovative design of buildings and access, and any other features deemed appropriate by the City Council.

12.6.20.13 Other Requirements

The following requirements are in addition to the requirements found in this Chapter, the General Provisions or Supplementary Provisions of this ordinance, or any other applicable resolution or ordinance.

1. Signs - Signs are allowed in the NC Zone in accordance with Section 12.15 herein.
2. Landscaping - Each lot or parcel shall be completely landscaped except those areas used for buildings or parking, but at a minimum, twenty (20) percent of the lot or parcel shall be landscaped. Each project application shall be accompanied by a complete landscaping plan detailing the types and sizes of planting materials to be used. The landscaping shall be maintained using an automatic sprinkling system and shall be completed prior to issuance of a Certificate of Occupancy. At its discretion, the City Council may approve xeri-scaping or other water conserving landscaping which would not require an automatic sprinkling system. A landscaping buffer shall be required for areas adjacent to residential uses or adjacent to the street.
3. Trash, junk, and other debris - No trash, used materials, unsightly storage of any kind or unlicensed or abandoned vehicles may be stored in an open area. All such materials shall be enclosed in a building or, if deemed appropriate by the City, by a sight-obscuring fence. Dumpsters shall be located within a solid wall enclosure with a sight-obscuring fence, and dumpsters shall have closed and lockable lids.
4. No dust, noxious odor, smoke, vibration, intermittent light, glare, or noise shall be emitted which is discernible beyond the premises, except for normal traffic movements.

Chapter 12.21

Residential Facilities for Elderly Persons or Persons with a Disability and Other Facilities (*amended 7/10/2007; Ord. 2007-17*)

- 12.21.1 Purpose
- 12.21.2 Scope
- 12.21.3 Definitions
- 12.21.4 Permitted Uses
- 12.21.5 Development Standards
- 12.21.6 Residential Facilities for Elderly Persons and Residential Care Facilities for Elderly Persons
- 12.21.7 Residential Treatment Facilities for Persons with Disabilities
- 12.21.8 Non-residential Treatment Facilities
- 12.21.9 Reasonable Accommodation
- 12.21.10 Other Requirements

12.21.1 Purpose

The purpose of this Chapter is to comply with Sections 10-9a-516 through 10-9a-520 of the Utah Code Annotated, as amended, and to avoid discrimination in housing against persons with disabilities pursuant to the Utah Fair Housing Act and the Federal Fair Housing Act.

12.21.2 Scope

If any facility, residence, congregate living or other housing arrangement meets the definition of a residential facility for elderly persons or a residential facility for persons with a disability or other facility as set forth in this Title, the requirements of this Chapter shall govern the same notwithstanding any conflicting provision of this Title or the Bluffdale City Code. Except as provided herein, the requirements of this Chapter shall not be construed to prohibit or limit other applicable provisions of this Title, the Bluffdale City Code, or other local, state or federal law.

12.21.3 Definitions

1. **Adult Day Care Facility.** Adult Day Care Facility means any building or structure furnishing care; supervision, and guidance for three (3) or more adults unaccompanied by guardian for periods of less than twenty-four hours (24) per day.
2. **Assisted Living Facility.** An Assisted Living Facility is a residential facility, licensed by the State of Utah, with a home like setting that provides an array of

coordinated support personnel and health care services, available 24-hours per day, to residents who have been assessed under the Utah Department of Health or the Utah Department of Human Services Rules to need any of these services. Each resident shall have a service plan based on the assessment, which may include:

- i. specified services of intermediate nursing care;
 - ii. administration of medication, and;
 - iii. support services promoting residence independence and self sufficiency. Such a facility does not include adult day care provided in conjunction with a residential facility for elderly persons or a residential facility for persons with a disability.
3. **Disability.** Disability means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment. Disability does not include current illegal use of, or addiction to, any federally controlled substance as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802, or as defined under Title 58, Chapter 37, Utah Code Annotated, 1953 as amended.
 4. **Elderly Person.** Elderly Person means a person who is 60 years old or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently
 5. **Family.** See definition in Chapter 12.29 of this Title.
 6. **Non-residential Treatment Facility.** Non-residential Treatment Facility means a facility wherein no persons will be housed on an overnight basis, and provides services including rehabilitation, treatment, counseling, or assessment and evaluation services related to delinquent behavior, alcohol abuse, drug abuse, sexual offenders, sexual abuse, or mental health. Associated educational services may also be provided to juvenile occupants.
 7. **Nursing Home.** Nursing Home means an intermediate care/nursing facility or a skilled nursing facility licensed by the State of

Utah, for the care of individuals who, due to illness, advanced age, disability, or impairment require assistance and/or supervision on a 24-hour per day basis. Such a facility does not include an adult day care facility or adult day care provider in conjunction with residential facilities for elderly persons or a residential facility for persons with a disability.

8. Protective Housing Facility. Protective Housing Facility means a facility either (1) operated, licensed, or contracted by a governmental entity, or (2) operated by a charitable, non-profit organization, where for no compensation, temporary, protective housing is provided to: (i) abused or neglected children waiting placement of foster care; (ii) pregnant or parenting teens; (iii) victims of sexual abuse; or (iv) victims of domestic abuse.
9. Reasonable Accommodation. Reasonable accommodation means a change in any rule, policy, practice, or service necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. The following words have the following definitions, to wit:
 - i. Reasonable. Reasonable means a requested accommodation that will not undermine the legitimate purpose of existing zoning regulations notwithstanding the benefit that the accommodation will provide to a person with a disability.
 - ii. Necessary. Necessary means the applicant must show that, but for the accommodation one or more persons with a disability likely will be denied an equal opportunity to enjoy the housing of their choice.
 - iii. Equal Opportunity. Equal opportunity means achieving equal results as between a person with a disability and a non-disabled person.
10. Related. Related means by blood, marriage or adoption within the definition of "family." Related persons mean a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild, to include the half as well as the whole

blood.

11. Residential Care Facility for Elderly Persons. Residential Care Facility for Elderly Persons means a dwelling unit that is occupied on a 24-hour per day basis by 8 or fewer elderly persons in a family type arrangement and which is:
 - i. licensed or certified by the Department of Human Services under Title 62A, Chapter 2, of the Utah Code, Licensure of Programs and Facilities; or
 - ii. licensed or certified by the Department of Human Health under Title 26, Chapter 21, Health Care Facilities Licensing and Inspection Act; and
 - iii. intended to provide care or treatment to persons with disabilities.
12. Residential Care Facility for Persons with Disabilities. Residential Care Facility for Persons with a Disability means a residence in which more than one person with a disability resides and which is:
 - i. licensed or certified by the Department of Human Services under Title 62A, Chapter 2, of the Utah Code, Licensure of Programs and Facilities; or
 - ii. licensed or certified by the Department of Human Health under Title 26, Chapter 21, Health Care Facilities Licensing and Inspection Act; and
 - iii. intended to provide care or treatment to persons with disabilities.
13. Residential Facility for Elderly Persons. Residential Facility for Elderly Persons means a dwelling unit that is occupied on a 24-hour per day basis by 8 or fewer elderly persons in a family type arrangement. A residential facility for elderly persons shall not include any of the following:
 - i. a facility which is operated as a business; provided that such facility may not be considered to be operated as a business solely because a fee is charged for food or for actual and necessary costs of preparation and maintenance of the facility;
 - ii. a facility where persons being treated for alcoholism or drug abuse are placed; a facility where placement is not on a strictly voluntary basis or where

placement is part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution; or a facility which is a health care facility as defined by Title 26, Section 21, Chapter 2, Utah Code Annotated, 1953 as amended; or a facility which is a residential facility for persons with a disability.

14. Residential Facility for Persons with Disabilities. Residential Facility for Persons with a Disability means a residence in which more than one person with a disability resides and which is:
 - i. licensed or certified by the Department of Human Services under Title 62A, Chapter 2, of the Utah Code, Licensure of Programs and Facilities; or
 - ii. licensed or certified by the Department of Human Health under Title 26, Chapter 21, Health Care Facilities Licensing and Inspection Act; and
 - iii. not intended to provide care or treatment to persons with disabilities.

12.21.4 Permitted Uses

Notwithstanding any contrary provision of this Title, a residential facility for elderly persons and a residential facility for persons with a disability shall be permitted uses in any zone where a dwelling is allowed as a permitted use subject to the provisions of this Chapter.

A use permitted by this Chapter is non-transferable and shall terminate if:

1. The facility is devoted to a use other than a residential facility for elderly persons or a residential facility for persons with a disability.
2. Any license or certification issued by the Utah Department of Health or the Utah Department of Human Services for such facility terminates or is revoked.
3. The facility fails to comply with requirements set forth in this Chapter.

12.21.5 Development Standards

12.21.5.1 Building, Safety and Health Regulations

12.21.5.2 No Dangerous Persons Permitted

12.21.5.3 License and Certification

The development standards set forth in this Section

shall apply to any residential facility for elderly persons or residential facility for persons with a disability.

12.21.5.1 Building, Safety and Health Regulations

All facilities shall comply with any building, safety, and health regulations applicable to similar structures.

1. Each facility shall be subject to the same development standards applicable to similar structures located in the same zoning district in which the facility is located.
2. The minimum number of parking spaces required for a facility shall be the same as for similar structures located in the same zoning district in which the facility is located.

12.21.5.2 No Dangerous Persons Permitted

No facility may be made available to an individual who has demonstrated, by prior behavior, actions and/or criminal convictions, or as a resident, that he or she:

1. May be determined to be or does constitute a direct threat or substantial risk to the health or safety of other individuals; or
2. Has or may engage in conduct resulting in substantial physical damage to the property of others.

12.21.5.3 License and Certification

1. Prior to occupancy of any facility or the issuance of a business license, building permit, or conditional use permit, the person or entity operating the facility shall:
 - a. Provide to Bluffdale City a copy of any license or certification required by the Utah State Department of Health or the Utah Department of Human Services.
 - b. Certify in a sworn statement that no person will reside or remain in the facility whose tendency would:
 - i. Constitute a direct threat to the health or safety of other individuals.
 - ii. Result in substantial physical damage to the property of others.
2. If after a reasonable investigation staff or the City Council determines that a residential facility for persons with a disability might create a fundamental change in the character of a neighborhood the item shall be scheduled for a public hearing before the City Council. The City Council, acting as the land use authority, may exclude the

facility from a zone if it finds that the proposed residential facility for persons with a disability would likely create a fundamental change in the character of a residential neighborhood. The factors to be analyzed in determining whether a fundamental change in the character of a residential neighborhood might be caused include, but are not limited to, the following:

1. impact on traffic congestion,
2. availability of adequate parking,
3. the business nature of a proposed facility in an area zoned for exclusively residential uses, including whether the proposed facility will offer outpatient services,
4. hours of operation,
5. safety and security measures for the proposed facility, and
6. other similar concerns.

Section 12.21.6 Residential Facilities For Elderly Persons and Residential Care Facilities for Elderly Persons

1. Purpose. The purpose of this code is to comply with Title 10, Chapter 9a, Sections 516 through 519, Utah Code Annotated, 1953 as amended.
2. Residential facilities for elderly persons and residential care facilities for elderly persons shall comply with all requirements of §10-9a-516 through 519, and also the following requirements:
 - i. The facility shall meet all applicable building codes, safety codes, zoning regulations, the Americans with Disabilities Act, and health ordinance applicable to single-family or similar dwellings; except as may be modified by the provisions of this Chapter.
3. No facility shall be made available to an individual who has demonstrated, by prior behavior, actions and/or criminal convictions, or as a resident, that he or she:
 - i. May be determined to be or does constitute a substantial risk or direct threat to the health or safety of other individuals; or
 - ii. Has or may engage in conduct resulting in substantial physical damage to the property of others.

4. Minimum site development standards shall be the same as those for a dwelling unit in the zone in which the facility is located;
5. The facility shall be capable of being used as a residential facility for elderly persons without structural or landscaping alterations that would change the structure's residential character;
6. The use granted and permitted by this section is non-transferable and terminates if the structure is devoted to any use other than as a residential facility for the elderly or if the structure fails to comply with the applicable health, safety, zoning and building codes; and
7. No residential facility for elderly persons or residential care facility for elderly persons shall be established or maintained within a quarter mile (1,320 feet) measured in a straight line between the closest property lines of the lots or parcels of the following facilities:
 - i. A residential facility for persons with a disability;
 - ii. A residential care facility for persons with a disability;
 - iii. A residential facility for elderly with more than five (5) elderly persons in a residence;
 - iv. A residential care facility for elderly with more than five (5) elderly persons in a residence;
 - v. Any of the following facilities: adult day care facility, protective housing facility, transitional housing facility, assisted living facility, a non-residential treatment facility, and nursing home.

Section 12.21.7 Residential Facilities for Persons with a Disability and Residential Care Facilities for Persons with a Disability

1. Purpose. The purpose of this code is to comply with Title 10, Chapter 9a, Section 520, Utah Code Annotated, 1953 as amended.
2. Residential facilities for persons with a disability and residential care facilities for persons with a disability shall comply with all requirements of § 10-9a-520 and also the following requirements:

- i. The facility shall meet all applicable building codes, safety codes, zoning regulations, the Americans with Disabilities Act, and health ordinance applicable to single-family or similar dwellings; except as may be modified by the provisions of this Chapter.
- 3. No facility shall be made available to an individual who has demonstrated, by prior behavior, actions and/or criminal convictions, or as a resident, that he or she:
 - i. May be determined to be or does constitute a substantial risk or direct threat to the health or safety of other individuals; or
 - ii. Has or may engage in conduct resulting in substantial physical damage to the property of others.
- 4. Minimum site development standards shall be the same as those for a dwelling unit in the zone in which the facility is located.
- 5. The facility shall be capable of being used as a residential facility for persons with a disability or a residential care facility for persons with a disability without structural or landscaping alterations that would change the structure's residential character.
- 6. The use granted and permitted by this section is non-transferable and terminates if the structure is devoted to any use other than as a residential facility for persons with a disability or a residential care facility for persons with a disability or if the structure fails to comply with the applicable health, safety, zoning and building codes; and
- 7. No residential facility for persons with a disability or residential care facility for persons with a disability shall be established or maintained within a quarter mile (1,320 feet) measured in a straight line between the closest property lines of the lots or parcels of the following facilities:
 - i. A residential facility for persons with a disability;
 - ii. A residential care facility for persons with a disability;
 - iii. A residential facility for elderly with more than five (5) elderly persons in a residence;
 - iv. A residential care facility for elderly
 - with more than five (5) elderly persons in a residence;
- v. Any of the following facilities: adult day care facility, protective housing facility, transitional housing facility, ~~assisted living facility~~, nursing home, and a non-residential treatment facility.
- 8. For residential facilities for persons with a disability or residential care facilities for persons with a disability that are substance abuse facilities and are located within 500 feet of a school, the facility shall provide, in accordance with rules established by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities:
 - (i) a security plan satisfactory to local law enforcement authorities;
 - (ii) 24-hour supervision for residents; and
 - (iii) other 24-hour security measures
- 9. In zones that allow residential uses no residential facility for persons with a disability or residential care facility for persons with a disability may exceed eight (8) residents. A maximum of 18 total persons is permitted (including staff and the family that owns the residence).

12.21.8 Non-residential Treatment Facilities

Non-residential treatment facilities shall not be built within Bluffdale City except as specifically allowed as a permitted or conditional use by proper designation in a zone or zones in Chapter 12.6. Each permitted facility, or facility allowed as a conditional use, shall conform to the following requirements:

- 1. The facility shall comply with all building, safety, zoning and health regulations, the American with Disabilities Act, fire regulations, and all applicable State code standards and licensing requirements, and any standards set forth in any contract with a state agency.
- 2. The following site development standards and parking standards shall be applicable:
 - i. Each facility shall be subject to minimum site development standards applicable to a business in the zone in which the facility may be located; and
 - ii. The minimum number of parking spaces required shall be the same as the number required for an office building with similar size, occupancy, and

density in the same zone.

3. Prior to occupancy of the facility, the person or entity licensed or certified by the Department of Human Services or the Department of Health to establish and operate the facility shall:
 - i. Provide a certified copy of such license with the City Recorder;
 - ii. Certify, in a sworn affidavit submitted with application for a business license, compliance with the Americans with Disabilities Act;
4. The use permitted by this section is non-transferable and shall terminate if:
 - i. A facility is devoted to or used as other than a non-residential facility; or
 - ii. The license or certification issued by the Department of Human Services, Department of Health or any other applicable agency, terminates or is revoked, or the facility fails to comply with the conditions set forth in this section.
5. No non-residential treatment facility shall be established or maintained within a quarter mile (1,320 feet) measured in a straight line between the closest property lines of the lots or parcels of the following facilities:
 - i. A residential facility for persons with a disability;
 - ii. A residential care facility for persons with a disability;
 - iii. A residential facility for elderly with more than five (5) elderly persons in a residence;
 - iv. A residential care facility for elderly with more than five (5) elderly persons in a residence;
 - v. Any of the following facilities: protective housing facility, transitional housing facility, ~~assisted living facility~~, a non-residential treatment facility, and elementary schools.
6. To the extent similar requirements to any contained in this section are contained in the specific zone in which any facility referred to herein may be located, the more restrictive provisions shall apply, and the requirements stated herein shall be considered to be in addition to presently existing zoning regulations, subject to the conflicts resolution provisions of this

subsection.

12.21.9 Reasonable Accommodation

None of the requirements of this Chapter shall be interpreted to limit any reasonable accommodation necessary to allow the establishment or occupancy of a residential facility for persons with a disability. Any person or entity wanting a reasonable accommodation shall make application therefor to Bluffdale City and shall articulate in writing the nature of the requested accommodation and the basis for the request. The City Council shall render a decision on each application for a reasonable accommodation within thirty (30) days. If a reasonable accommodation request is denied, the decision may be appealed to the Board of Adjustment in the manner provided for appeals of administrative decisions set forth in this Title.