

ORDINANCE NO. 2014-15

AN ORDINANCE AMENDING SECTION 18.68.601, RESIDENTIAL FACILITY FOR HANDICAPPED PERSONS; 18.68.602, HANDICAPPED RESIDENTIAL FACILITIES AS A PERMITTED USE; 18.68.603, APPROVAL OF HANDICAPPED RESIDENTIAL FACILITIES 18.68.604, HANDICAPPED RESIDENTIAL FACILITIES IN AREAS ZONED EXCLUSIVELY FOR SINGLE-FAMILY DWELLINGS; 18.68.605 REVIEW AND APPROVAL; AND 18.68.606, DEFINITIONS, OF THE HEBER CITY MUNICIPAL CODE

BE IT ORDAINED by the City Council of Heber City, Utah, those Sections 18.68.601, 18.68.602, 18.68.603, 18.68.604, 18.68.605 AND 18.68.606 of Heber City Municipal Code are **AMENDED** as follows:

Section 18.68.601 Residential Facilities for Disabled Persons

A. Definitions. For the purpose of Section 18.68.601:

1. "Disabled Person" means an individual with a disability as defined by the Federal Americans with Disabilities Act as amended (ADA), US Housing and Urban Development (HUD), and/or the Utah Fair Housing Act.

2. "Residential facility for disabled persons" or "facility" means a single-family or multiple-family dwelling unit that provides a family-type living environment for disabled persons and meets the requirements of Section 18.68.601 "Residential Facilities for Disabled Persons".

B. Intent. It is the intent of this ordinance to accommodate individuals with a bona fide disability as defined by the ADA, HUD, and the Utah Fair Housing Act. This ordinance shall not be used to circumvent other requirements of the Heber City Zoning Ordinance.

C. Residential Facility for Disabled Persons as a Permitted Use. Each facility is a permitted use within any Zone where residential dwellings are permitted. The granting of a permit to operate a facility rests with the Zoning Administrator or his or her designee, with appeals going to the Appeals and Variance Authority.

D. License and Permits Required. Each facility shall:

1. Obtain a local business license when a facility is operated and managed by an entity for profit or non-profit;
2. Obtain any applicable state, federal, and local licenses or permits, and provide evidence of required licensure upon application for a local business license;
3. Meet all municipal building, safety, and health ordinances applicable to similar dwellings; and

4. Conform to all applicable requirements of the Utah State Department of Human Services and be operated by or operated under contract with that Department.

E. Facility Requirements. Each facility shall:

1. Establish and maintain adequate off-street parking spaces;

2. Be established, managed, and maintained in a manner consistent with the character and scale of the surrounding residential neighborhood;

3. Be occupied by sixteen (16) or fewer disabled persons in a family-type arrangement under the supervision of a house family or manager in accordance with the requirements of the Utah State Department of Human Services; provided, however, the occupancy of such facility shall not exceed the limits established by the Utah State Code, Utah State Administrative Rules, or the International Building Code.

4. Accept individuals within the facility on a strictly voluntary basis and shall not include placement of individuals as part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional facility;

5. Not be established or maintained within six-hundred feet (600) feet of an existing facility, as measured in a straight line from the nearest property line of a facility to the nearest property line of another facility;

6. Provide services to a group of individuals with bona fide disabilities, as evidenced by receipt of an official ADA Certification or receipt of recent treatment or therapy within the past year for a qualifying disability; and

7. When part of an addiction recovery facility, require monthly drug and alcohol testing and verification, and provide said verification upon request to Heber City.

F. Enforcement. The following are factors that shall disqualify a facility from operating within Heber City and shall be grounds for declaration of such facility as a public nuisance, and subject such facility to license revocation and/or other available criminal or civil action. Knowingly or unknowingly:

1. providing services to CURRENT drug or alcohol users at a facility rather than providing services to RECOVERING alcohol or drug addicts;

2. permitting drug or alcohol use or drug manufacturing at a facility;

3. providing services to individuals that do not qualify with a bona fide disability and operating such facility under the guise or façade of a bona fide disabled facility; or

4. permitting or engaging in other unlawful activities which constitute a Pattern of Unlawful Activity pursuant to Title 76, Chapter 10, Part 16 of the Utah State

Code.

G. Severability. If any part of this Section is found to be unlawful by a court of law, applicable State or Federal regulations shall govern that situation, and the remainder of this Section shall remain in full effect.

Section 18.68.602 Reserved
Section 18.68.603 Reserved
Section 18.68.604 Reserved
Section 18.68.605 Reserved
Section 18.68.606 Reserved

This Ordinance shall take effect and be in force from and after (a) its adoption, (b) a copy has been deposited in the office of the City Recorder and (c) a short summary of it has been published in the Wasatch Wave, but not prior to the 19th day of June, 2014.

ADOPTED and PASSED by the City Council of Heber City, Utah this 19 day of June, 2014, by the following vote:

	AYE	NAY
Council Member Robert L. Patterson	<u>X</u>	_____
Council Member Jeffery Bradshaw	<u>X</u>	_____
Council Member Erik Rowland	<u>X</u>	_____
Council Member Heidi Franco	<u>X</u>	_____
Council Member Kelleen L. Potter	_____	_____ <i>Excused</i>

APPROVED:



 Mayor Alan W. McDonald

ATTEST:

Michelle Kellogg
 RECORDER

Date: JUNE 26 2014

Date of First Publishing: July 2, 2014