

ORDINANCE NO. 07-02-2010

AN ORDINANCE AMENDING CITY REGULATIONS AFFECTING RESIDENTIAL FACILITIES FOR THE ELDERLY AND RESIDENTIAL FACILITIES FOR PERSONS WITH A DISABILITY, CODIFICATION, AND INCLUSION IN THE CODE; ALSO PROVIDING FOR THE CORRECTION OF SCRIVENER'S ERRORS, SEVERABILITY, A SAVING CLAUSE AND EFFECTIVE DATE FOR THE ORDINANCE.

WHEREAS, the City Council has been given specific authority in Utah Code Annotated, Title 10, Chapter 9a. to adopt land use ordinances to regulate the erection, construction, reconstruction, alteration, repair and uses of buildings and structures and the uses of land, which are reasonably and appropriately related to the objectives of providing for the public safety, health, morals, and welfare; and

WHEREAS, Utah Code Annotated, Title 10, 9a also requires municipalities to have land use ordinances pertaining to Residential Facilities for the Elderly and Residential Facilities for Persons with a Disability; and

WHEREAS, The City desires to amend its current regulations pertaining to Residential Facilities for the Elderly and Residential Facilities for Persons with a Disability in order to comply with state code and address the specific needs of the community; and

WHEREAS, the Santaquin City Planning Commission held a public hearing to discuss the proposed amended ordinances on June 10, 2010, which hearing was preceded by the posting of public notice in at least three public places within the City limits of Santaquin City, and which notice of public hearing was published in the Payson Chronicle Newspaper in accordance with Section 10-9a-205 of the Utah State Code; and

WHEREAS, The Planning Commission has forwarded a positive recommendation for the amendment to the City Council; and

WHEREAS, procedures have been established by the Land Development Code and Utah Code Ann. where appeals can be heard and decided if it is alleged that there is legislative or administrative error or where a special exception or variance to the ordinance is required.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Santaquin City, State of Utah, as follows:

Section I.

The Santaquin City Code, Title 10, Land Use and Development Management Code is amended as follows:

Section **10-2 Definitions** is amended as follows (underlined text is added, stricken text is deleted).

ADULT DAYCARE: A nonresidential care facility providing supervision for three (3) or more adults for at least four (4) but less than twenty four (24) hours a day; and that ~~meets the needs~~

~~of functionally impaired adults through a comprehensive program that provides~~ offers a variety of health, social, recreational, and related support services in a protective setting to functionally impaired adults. Adult daycare does not include a Residential Facilities For The Elderly or Residential Facility For Persons With A Disability.

~~CONDITIONAL USE: a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts~~ A use which requires approval of the planning commission prior to the issuance of a permit for construction or commencement of use. A use which requires individual consideration of surrounding conditions and circumstances prior to approval. Approval by the planning commission may be given with conditions.

~~FAMILY: A group of two (2) or more persons related by blood, marriage, or adoption living together in a single dwelling unit and maintaining a common household. A family may include two (2), but not more than two (2) nonrelated persons living as guests with the residing family. The term family shall not be construed to mean a group of nonrelated individuals, a fraternity, club, or institutional group.~~

A. One individual living alone, or

B. One, but not more than one at the same time, of the following groups of individuals described in subsections 1 or 2 who together occupy a single family dwelling unit as one nonprofit housekeeping unit and who share common living, sleeping, cooking and eating facilities:

1. A head of household and:

a. all persons related to the head of household as a parent, child, grandparent, grandchild, great-grandparent, great-grandchild, brother, or sister, by blood, marriage, adoption, guardianship, or other duly authorized custodial relationship, and

b. not more than two (2) additional related or nonrelated persons, including but not limited to, personal care or personal service providers; or

2. Two related or unrelated individuals and the children of each individual, if any.

C. The term family shall not include:

1. A fraternity, club, or institutional group; or

2. any number of individuals whose association is temporary or seasonal in nature; or

3. any number of individuals who are in a group living arrangement as a result of criminal offenses.

Section II.

The Santaquin City Code (S.C.C.), Title 10, Land Use and Development Management Code is amended as follows:

1. The use "Nursing Homes and Private Healthcare Facilities" as listed in sections 10-7A-3, 10-7B-3, 10-7C-3, 10-7D-3, 10-7E-3, 10-7I-5, and 10-7L-3 shall be replaced with the use "Convalescent Home, Rest Home, or Nursing Home" in the listed sections.

- The following uses shall be added to Section 10-7M-2 Permitted Uses, and listed as permitted in the following manner:

	CBD	MSC	MSR
Residential Facility for the Elderly	N	N	P
Residential Facility for Persons with a Disability	N	N	P

- The following uses shall be added to Section 10-7O-3 Permitted Uses, and listed as permitted in the following manner:

	R-Ag	Ag
Residential Facility for the Elderly	P	N
Residential Facility for Persons with a Disability	P	N

Section III.

The Santaquin City Code, Title 10-16, Residential Facilities for the Elderly is amended to read as follows:

Chapter 10-16 RESIDENTIAL FACILITIES FOR THE ELDERLY

10-16-1: Purpose

The purpose of this section is to:

- Comply with Utah Code Annotated 1953 as it pertains to residential facilities for the elderly.
- Establish criteria for reviewing a proposal to construct a residential facility for the elderly within the City, such criteria being legitimate land use criteria and not predicated upon the age of persons to be housed or utilizing such residential facilities.
- Implement standards and provisions which prohibit discrimination against elderly persons and against residential facilities for the elderly.

10-16-2: OPERATION:

A residential facility for elderly persons may not operate as a business. A residential facility for elderly persons may not be considered a business because a fee is charged for food or for actual and necessary costs of operation and maintenance of the facility. A residential facility must be owned by one of the residents or by an immediate family member of one of the residents or be a facility for which the title has been placed in trust for a resident.

10-16-3: REQUIREMENTS:

A residential facility for elderly persons shall comply with the following criteria:

A. Occupancy.

- No person who is being treated for alcoholism or drug abuse may be placed in a residential facility for elderly persons.

2. Occupants placed in a residential facility for elderly persons shall be on a strictly voluntary basis and may not be a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution.
 3. A facility may house up to four (4) unrelated persons without having to obtain a Conditional Use permit. This number does not include any care-giver or provider associated with the facility or who may frequent the facility.
 4. The facility must be occupied on a 24-hour-per-day basis by eight or fewer elderly persons in a family-type arrangement.
- B. Zoning. Residential Facilities for the Elderly are a permitted use in all strictly single family residential zones of the City, including those residential zones located in the Core Area of the City.
- C. Proximity to Other Facilities. A Residential Facility for the Elderly may not be located closer than 500 feet to another such facility.
- D. Parking
1. Those facilities having four (4) or fewer full-time occupants shall provide four off-street parking stalls. These stalls may be tandem stalls (i.e. driveway/garage style) consistent with surrounding single family properties.
 2. Those facilities having more than four (4) full-time occupants shall provide 1.5 parking stalls per two full-time occupants plus one on-site staff member during the highest shift. Such parking must comply with the standards of section 10-14: Parking regulations.
- E. Landscaping. All facilities shall provide and maintain completely landscaped front, side and rear yard areas in accordance with the City's landscaping standards as found in this Code.
- F. Building Permit. A building permit shall be obtained for any internal or external construction work for a facility, as required by City building codes.
- G. Use Termination. The use granted and permitted by this section is nontransferable and terminates if the structure is devoted to a use other than as a residential facility for elderly persons or if the structure fails to comply with applicable health, safety, and building codes.

10-16-4: CITY REVIEW PROCESS:

- A. New facilities for four (4) or less occupants. A building permit shall be obtained and site plan reviewed by the community development director for compliance with the above standards. If the Director determines the proposal warrants Conditional Use Review the

application will be forwarded to the Planning Commission for such review. The application may also be referred to the City Architectural Review Committee if the Director determines a proposed building exterior is not consistent with or complementary to surrounding single family properties.

- B. Retrofit of existing residential dwelling to house up to four (4) occupants. All facilities shall obtain a building permit for any internal or external alterations of an existing structure, as required by City building codes. Site plan review shall be conducted by the Community Development Director. External alterations which are not consistent with or complementary to surrounding single family properties must be reviewed by the City's Architectural Review Committee.
- C. New Facilities for more than four (4) occupants. Applications for facilities to house more than four (4) occupants are required to obtain a Conditional Use Permit from the Planning Commission. Building and site plans shall be reviewed under the City's site plan review process. Building elevations shall also be reviewed by the Architectural Committee for compatibility with surrounding properties and residential structures.

Section IV.

The Santaquin City Code, Title 10-17, Residential Facilities for Persons with a Disability is amended to read as follows:

Chapter 10-17 RESIDENTIAL FACILITIES FOR PERSONS WITH A DISABILITY

10-17-1: Purpose

The purpose of this section is to:

1. Comply with Utah Code Annotated 1953 as it pertains to residential facilities for persons with a disability.
2. Establish criteria for reviewing a proposal to construct a residential facility for persons with a disability in the City. Such criteria complying with Title 57, Chapter 21, Utah Fair Housing Act, and the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.; and to the extent required by federal law, provide that a residential facility for persons with a disability is a permitted use in any zone where similar residential dwellings that are not residential facilities for persons with a disability are allowed.

10-17-2: DEFINITIONS:

As used in this section:

DISABILITY: Shall mean 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. It 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.

RESIDENTIAL FACILITY FOR PERSONS WITH A DISABILITY: Shall mean a residence:

- A. In which more than one person with a disability resides.
- B. Is licensed or certified by the department of human services under title 62A, chapter 2, licensure of programs and facilities.
- C. Is licensed or certified by the department of health under title 26, chapter 21, health care licensing and inspection act.

10-17-3:REQUIREMENTS:

A residential facility for persons with a disability is a permitted use in any zoning area where residential dwellings are allowed under the following criteria:

- A. Dispersal. A residential facility for persons with a disability shall be located a minimum of $\frac{3}{4}$ mile from another such facility
- B. Proximity to Schools. Residential facilities for persons with a disability that are substance abuse facilities and are located within five hundred feet (500') of a school shall provide, in accordance with rules established by the department of human services under title 62A, chapter 2, licensure of programs and facilities:
 - 1. A security plan satisfactory to local law enforcement authorities.
 - 2. Twenty four (24) hour supervision for residents.
 - 3. Other twenty four (24) hour security measures.
- C. Building, Safety, and Health Regulations. All residential facilities for persons with a disability shall obtain permits that verify compliance with the same building, safety, and health regulations as are applicable in the same zoning area to similar uses that are not residential facilities for persons with a disability.
- D. Occupancy. No more than four persons with a disability may reside within the facility at any one time. This number shall not include any licensed care providers, assistants, or supervisors who may also dwell and/or be employed within the same facility.
- E. Impacts on Surrounding Properties. A residential facility for persons with a disability that would likely create a fundamental change in the character of a residential neighborhood may be denied approvals to operate.

10-17-3: LICENSURE:

All facilities for persons with a disability shall obtain and maintain a City business license. Application for such license shall include documentation to show compliance with the regulations outlined by

- A. The Department of Human Services as provided in Utah State Code Annotated title 62A, chapter 5, services to people with disabilities, or.
- B. The Department of Health under Utah State Code Annotated Title 26, Chapter 21, health care facility licensing and inspection act.

Section V. Codification, Inclusion in the Code, and Scrivener's Errors

It is the intent of the City Council that the provisions of this ordinance be made part of the City Code as adopted, that sections of this ordinance may be re-numbered or re-lettered, that the word ordinance may be changed to section, chapter, or other such appropriate word or phrase in order to accomplish such intent regardless of whether such inclusion in a code is accomplished, sections of the ordinance may be re-numbered or re-lettered. Typographical errors which do not affect the intent of this ordinance may be authorized by the City without need of public hearing by its filing a corrected or re-codified copy of the same with the City Recorder.

Section VI. Severability

If any part of this ordinance or the application thereof to any person or circumstances shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance or the application thereof to other persons and circumstances, but shall be confined to its operation to the section, subdivision, sentence or part of the section and the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the City Council that this section would have been adopted if such invalid section, provisions, subdivision, sentence or part of a section or application had not been included.

Section VII. Effective Date

The City Recorder shall deposit a copy of this ordinance in the official records of the City on July 22, 2010, and before 5:00 p.m. on that same day, shall place a copy of this ordinance in three places within the City. This ordinance shall become effective immediately upon passage.

PASSED AND APPROVED this 21st day of July, 2010.



 James E. DeGraffenried, Mayor

Councilmember Filip Askerlund	Voted <u>Yes</u>
Councilmember Martin P. Green	Voted <u>Yes</u>
Councilmember James F. Linford	Voted <u>Absent</u>
Councilmember Rick Steele	Voted <u>Yes</u>
Councilmember Brent R. Vincent	Voted <u>Yes</u>

ATTEST:

S. J. Gannsworth
City Recorder

