

ORDINANCE #17-14

AN ORDINANCE AMENDING TITLE 15A OF THE REVISED ORDINANCES OF SANDY CITY (THE LAND DEVELOPMENT CODE), 2008, BY AMENDING CHAPTER 3, "OFFICERS, BOARDS AND COMMISSIONS", AND CHAPTER 11, "SPECIAL USES" TO MODIFY THE PROCESS FOR A REASONABLE ACCOMMODATION BY ADDING PROVISIONS FOR SELECTING A HEARING OFFICER, INSTEAD OF THE PLANNING COMMISSION, TO REVIEW THIS TYPE OF APPROVAL; ALSO PROVIDING A SAVING CLAUSE AND EFFECTIVE DATE FOR THE ORDINANCE.

WHEREAS, a request has been made to amend Title 15A of the Revised Ordinances of Sandy City (the Land Development Code), 2008, by amending Chapter 3, "Officers, Boards and Commissions", and Chapter 11, "Special Uses" to modify the process for requesting a reasonable accommodation by adding provisions for selecting a hearing officer, instead of the Planning Commission, to review this type of approval; and

WHEREAS, the Planning Commission held a public hearing on April 20, 2017 which meeting was preceded by notice by publication in the Salt Lake Tribune on April 6, 2017, and by posting in Sandy City Hall, the Sandy City Parks & Recreation Building, on the Sandy City Website - <http://www.sandy.utah.gov>, and the Utah Public Notice Website - <http://pmn.utah.gov> on March 31, 2017; and

WHEREAS, following the public hearing before the Planning Commission, the Commission recommended the amendment to the City Council; and

WHEREAS, a public meeting was held by the Sandy City Council on May 2, 2017 to consider adoption of the proposed amendment, which meeting was preceded by publication in the Salt Lake Tribune, on April 6, 2017, and by posting in Sandy City Hall, the Sandy City Parks & Recreation Building, on the Sandy City Website - <http://www.sandy.utah.gov>, and the Utah Public Notice Website - <http://pmn.utah.gov>, on March 31, 2017; and

WHEREAS, the City Council has been given specific authority in Title 10, Chapter 9a, Utah Code Ann. (2012) to adopt a zoning plan, including an ordinance and map which divide the municipality into districts or zones, and within such districts to regulate the erection, construction, reconstruction, alteration, repair and uses of buildings and structures, and the uses of land; and

WHEREAS, the State legislature has granted general welfare power to the City Council, independent, apart from, and in addition to, its specific grants of legislative authority, which enables the City to pass ordinances which are reasonably and appropriately related to the objectives of that power, i.e., providing for the public safety, health, morals, and welfare; and

WHEREAS, the foregoing legitimate governmental objectives are achieved by reasonable means, in that any adverse impact on private property value or use has been carefully balanced against the corresponding gain to the public; and the regulations have been calculated, on recommendation of City planning staff to permit property owners to beneficially use their properties for the practical purposes to which the property is reasonably adaptable; and procedures have been established by the Land Development Code and Utah Code Ann. where by 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 Sandy City, State of Utah, as follows:

Section 1. Amendment. Title 15A is amended as shown on **Exhibit "A"**, which is attached hereto and by this reference made a part hereof.

Section 2. Severable. 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 in 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 3. Effective. This ordinance shall become effective upon publication of a summary thereof.

PASSED AND APPROVED this 13th day of June, 2017.

Stephen P. Smith
Stephen P. Smith, Chairman
Sandy City Council

ATTEST:

Mally Spira
City Recorder

PRESENTED to the Mayor of Sandy City for his approval this 16th day of June, 2017.

APPROVED this 16th day of June, 2017.

Thomas M. Dolan
Thomas M. Dolan, Mayor

ATTEST:

Mally Spira
City Recorder

PUBLISHED this 21st day of June, 2017.



Exhibit A

15A-11-08 Residential Facility for Elderly Persons or for Persons with a Disability

A. **Purpose.** The purpose of this Section is to:

1. Comply with Utah Code Annotated.
2. Avoid discrimination in housing against persons with disabilities pursuant to the Utah Fair Housing Act and the Federal Fair Housing Act, as interpreted by courts whose decisions are binding in Utah. This Section is not a separate zone for such facilities, but applies to all residential zones within Sandy City. 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 as set forth in this Title, the requirements of this Chapter shall govern the same, notwithstanding any conflicting provision of this Title or the Revised Ordinances of Sandy City. Except as provided herein, the requirements of this Chapter shall not be construed to prohibit or limit other applicable provisions of this Title, the Revised Ordinances of Sandy City, or other local, County, State, or Federal laws.

B. **Permitted Uses**

1. **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 or conditional use subject to the development standards in paragraph D of this Section.
2. **Termination.** A use permitted by this Section is non-transferable and shall terminate if:
 - a. The facility is devoted to a use other than a residential facility for elderly persons or a residential facility for persons with a disability.
 - 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.
 - c. The facility fails to comply with requirements set forth in this Chapter.

C. **Review Process.** In addition to other information required by the Revised Ordinances of Sandy City, Utah, 1978, the following information must be submitted with the business license application for a residential facility. Additional information may be requested to aid in that review.

1. A statement of the specific type of facility (as defined by State regulations) the applicant seeks to operate and by which State agency it is regulated.
2. The number of residents and resident staff who will live at the residential facility.

3. The complete name of the business, the type of business entity and whether the business is a for-profit or non-profit organization.
4. The typical or average length of stay of the residents.

D. **Development Standards.** 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.

1. **Building, Safety, and Health Regulations.** The facility shall comply with building, safety, and health regulations applicable to similar residential structures within the residential zone in which the facility is located.
 - a. Each facility shall be subject to the same development standards applicable to similar residential structures located in the same zoning district in which the facility is located.
 - b. 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.
2. **No Dangerous Persons Permitted.** No facility shall be made available to an individual whose tenancy would:
 - a. Constitute a direct threat to the health or safety of other individuals.
 - b. Result in substantial physical damage to the property of others.
3. **Day Treatment and Outpatient Treatment.** Any such facility may seek an approval from the Planning Commission which would allow Day Treatment and/or Outpatient Treatment if the following measures have been taken to ensure the facility will not alter the fundamental character of the neighborhood:
 - a. The facility has direct access to an arterial or major collector street, with no access permitted to any minor collector or local street.
 - b. The facility is located on the same block or within 800 feet of an Institutional Care Facility.
 - c. The facility has enough off-street parking to accommodate each staff member, van/carpool parking, and each outpatient client.
 - d. All day treatment clients are transported to the Residential Facility for Disabled Persons from a separate facility using a van/carpool.
 - e. The maximum number of day and outpatient treatment clients will not exceed eight at any one time as permitted by the Building & Safety Code.
 - f. The facility is licensed for all three different activities by both the City and the State.
 - g. The facility meets all Building, Fire, and Life Safety Codes.

1. **Hearing Officer Scheduling of Hearing.** The hearing officer shall review the request for accommodation within ten days after receipt of the written request by the Director. The hearing officer shall determine whether additional information is needed from the Director, the person or entity making the request, or both.
 - a. If additional information is needed, the hearing officer shall notify the Director and the person or entity making the request within twenty-one days after receipt of the written request by the Director. The Director and requesting person or entity shall have seven days to submit the requested information, or such reasonable additional time as approved by the hearing officer. The hearing officer shall determine within three days after receipt of additional information whether the submission is responsive to the hearing officer's request.
 - b. If no additional information is needed or if the hearing officer receives the requested additional information, the hearing officer shall schedule a hearing. The hearing officer shall provide written notice of the hearing date and time to the person or entity requesting the accommodation and the Director. Unless otherwise agreed to by the person or entity requesting the accommodation and the Director, the hearing officer shall hold the hearing within fourteen days after the hearing officer determines that all requested information has been received and no additional information is needed. Unless agreed upon by the person or entity requesting the accommodation and the Director, the hearing shall be held no more than forty-five days after receipt of the request by the Director. If the hearing officer has not received all requested information at that time, the hearing officer may continue the hearing or deny the request based on insufficient information.
2. **Findings.** The hearing officer shall make a determination and prepare written findings within seven days after the hearing.
 - a. At a minimum, the written findings shall address the following issues: (i) whether the requested accommodation(s) is reasonable; (ii) whether the requested accommodation is necessary for financial and therapeutic viability; (iii) whether the facility with the requested accommodation(s) is or is not likely to create a fundamental change in the character of the residential neighborhood; and (iv) other findings in support of the hearing officer's determination.
 - b. The hearing officer shall mail a copy of the written determination and findings to the Director and the person or entity requesting the accommodation along with a letter notifying the Director and the person or entity requesting the accommodation that the decision is final and may be appealed to a court of competent jurisdiction.
 - c. The hearing officer shall forward a copy of the decision to the Mayor, the City Recorder and the City Council.
3. **Appeal.** The determination of the hearing officer shall be final and may be appealed to a court of competent jurisdiction.

H. **Exemptions.** A Residential Facility for Persons with a Disability shall not include facilities which house persons who are violent, who are not voluntarily residing therein, or who are residing therein as a part of or in lieu of confinement, rehabilitation, or treatment in a correctional facility.

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