

SWITCHPOINT RESIDENTIAL SUPPORT PROGRAM

- 1. Permit Parameters**
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Permit Parameters:

Will the Switchpoint facility be a homeless shelter?

- ▶ No. The Switchpoint facility will be licensed by the State of Utah as a **RESIDENTIAL SUPPORT PROGRAM**.
- ▶ Residents will receive an address, and will pay rent.
- ▶ Residents will be referred to the program by a clinical team.



Permit Parameters:

Will the Switchpoint facility be a homeless shelter?

- ▶ The State of Utah has a definition of homeless shelter (UCA 35A-16-401)
- ▶ "Homeless shelter" means a facility that provides or is proposed to provide temporary shelter to individuals experiencing homelessness.



Permit Parameters:

Will the Switchpoint facility be a homeless shelter?

- ▶ The State of Utah also has a definition of a Residential Support Program (UCA 26B-2-101):

"Residential support program" means a program that arranges for or provides the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.



Permit Parameters:

Will the Switchpoint facility be a homeless shelter?

- ▶ The State of Utah also has a definition of a Residential Support Program (UCA 26B-2-101):

"Residential support program" includes a program that provides a supervised living environment for individuals with dysfunctions or impairments that are:

- (i) emotional;
- (ii) psychological;
- (iii) developmental; or
- (iv) behavioral.



Permit Parameters:

Will the Switchpoint facility be a homeless shelter?

- ▶ Residential Support Programs are regulated as a Human Services Program by the Utah Department of Health and Human Services (DHHS).
- ▶ Human Services Program and Health Care Facilities require licensing by DHHS.
- ▶ Homeless shelters, except those shelters exclusively serving youth, do NOT require licensing by DHHS.
- ▶ Millcreek's definition of a Residential Facility for Persons with a Disability (MKZ Chapter 19.04) describes a Residential Facility as a facility that is regulated by the State of Utah as either a Human Services Program or a Health Care Facility.



Permit Parameters:

Will the Switchpoint facility be a behavioral health hospital?

- ▶ No. A Residential Support Program is not designed to provide acute mental health care.
- ▶ Clients will be on the path toward stability before they become residents of the facility. This is analogous to a patient being referred to assisted living after receiving acute treatment at a rehab hospital.
- ▶ The Health and Human Services license for Residential Support Programs requires wraparound support services, above and beyond what, for example, a drug treatment program provides.
- ▶ The program will be subject to inspection multiple times per year by insurance providers, Salt Lake County, and the Department of Health and Human Services to ensure compliance. The status of Switchpoint's other licenses is regularly monitored by the State.



Permit Parameters:

What is the property zoned? Is a Residential Support Program allowed in the zone?

- ▶ The property is zoned R-M (Residential Multifamily)
- ▶ Residential Facilities for Persons with a Disability are allowed in the R-M Zone.

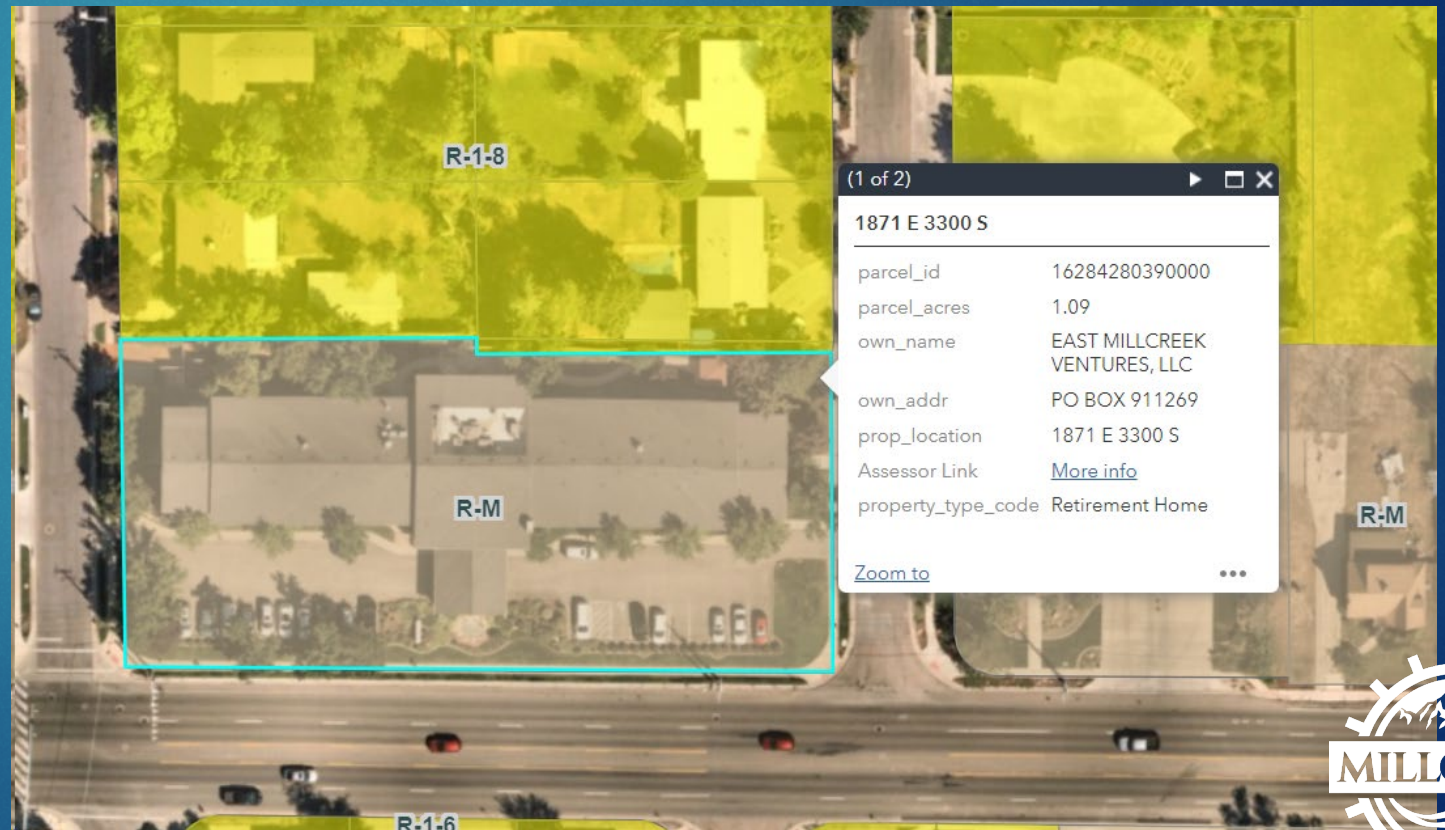


Table 19.44-1

USES		SPECIFIC USE STANDARDS
Banks, Credit Unions with a drive-through	C	Excluding non-depository institutions
Bed and breakfast	C	See definition in MKZ 19.04
Day care/preschool center	C	See definition in MKZ 19.04
Dwelling, single-family	P	
Dwelling, two-family	C	
Dwellings, three-family	C	
Dwellings, four-family	C	
Dwellings, multiple-family	C	May include mixed use
Instruction studios for art, dance, etc.	C	Stand alone or as part of a mixed use development
Home business	P	Subject to MKZ 19.85
Home day care/preschool; 1-6 children	P	See definition in MKZ 19.04
Home Day Care/preschool; 7-12 children	C	See definition in MKZ 19.04
Medical facility, of any size	C	
Mortuary	C	Excluding crematoriums
Office, of any size	P	
Neighborhood Service Uses	C	See definition in MKZ 19.04
Planned unit development	C	Subject to Chapter MKZ 19.78 and MKZ Title 18
Private educational institutions	C	
Public and quasi-public uses	C	
Residential facility for elderly persons	P	
Residential facility for persons with a disability	P	Subject to MKZ 19.87
Senior care center/Nursing home	P	
Short-term rental	P	See definition in MKZ 19.04
Temporary construction buildings	P	See definition in MKZ 19.04



Permit Parameters:

Can Millcreek deny a permit for a use that is allowed in a zone?

- ▶ No. As long as the proposed use meets the requirements in the code, Millcreek cannot deny a permit for a use that the RM zone expressly allows.



Permit Parameters:

Are we obligated to accept a Residential Facility for Persons with a Disability in our neighborhood, even if the facility treats people with mental health challenges, or who were previously homeless?

▶ Yes.



Permit Parameters:

Our Obligation Under Federal Law

- ▶ Federal law protects the rights of disabled Americans to live in residential neighborhoods, and this includes people who suffer from mental health or substance use disorders.
- ▶ Disabled Americans have as much a right to live in a Millcreek neighborhood as anyone else does.



Permit Parameters: Our Obligation Under Federal Law

- ▶ Denial of a permit for a Residential Facility for Persons with a Disability in a zone where the use is expressly allowed is a violation of both the Fair Housing Act and the Americans with Disabilities Act.
- ▶ In 2016, the Department of Justice and the Department of Housing and Urban Development issued a Joint Statement that clarified that denying, delaying, or adding unreasonable conditions to a permit based on **stereotypical perceptions** about a protected class of disabled people is a likely violation of the Fair Housing Act.



Permit Parameters:

What are the consequences of denying a permit?

- ▶ They're dire.
- ▶ Millcreek would be subject to a civil rights action from the Department of Justice, the applicant or potential residents.
- ▶ A denial would imperil many grants and appropriations we have received from federal and state agencies, because in those grant agreements we commit to further fair housing and protect the rights of all who live in Millcreek.



Permit Parameters:

Can we impose conditions on the permit?

- ▶ Yes, if the conditions are reasonable and non-discriminatory.
- ▶ The classic example is parking.
- ▶ We can also require the permit-holder to follow the treatment program they committed to follow in their application.
- ▶ We can require that they maintain their state license as a residential support program in good standing.



Permit Parameters:

Who approves the permit?

- ▶ The Millcreek Planning Director approves the permit, in consultation with the City Attorney.
- ▶ The Planning Director is required to approve the permit, if the application is proper and meets standards.
- ▶ Millcreek Code does not contemplate a role for the City Council in the approval of a permit for a residential facility for persons with a disability.



Permit Parameters:

Who approves the permit?

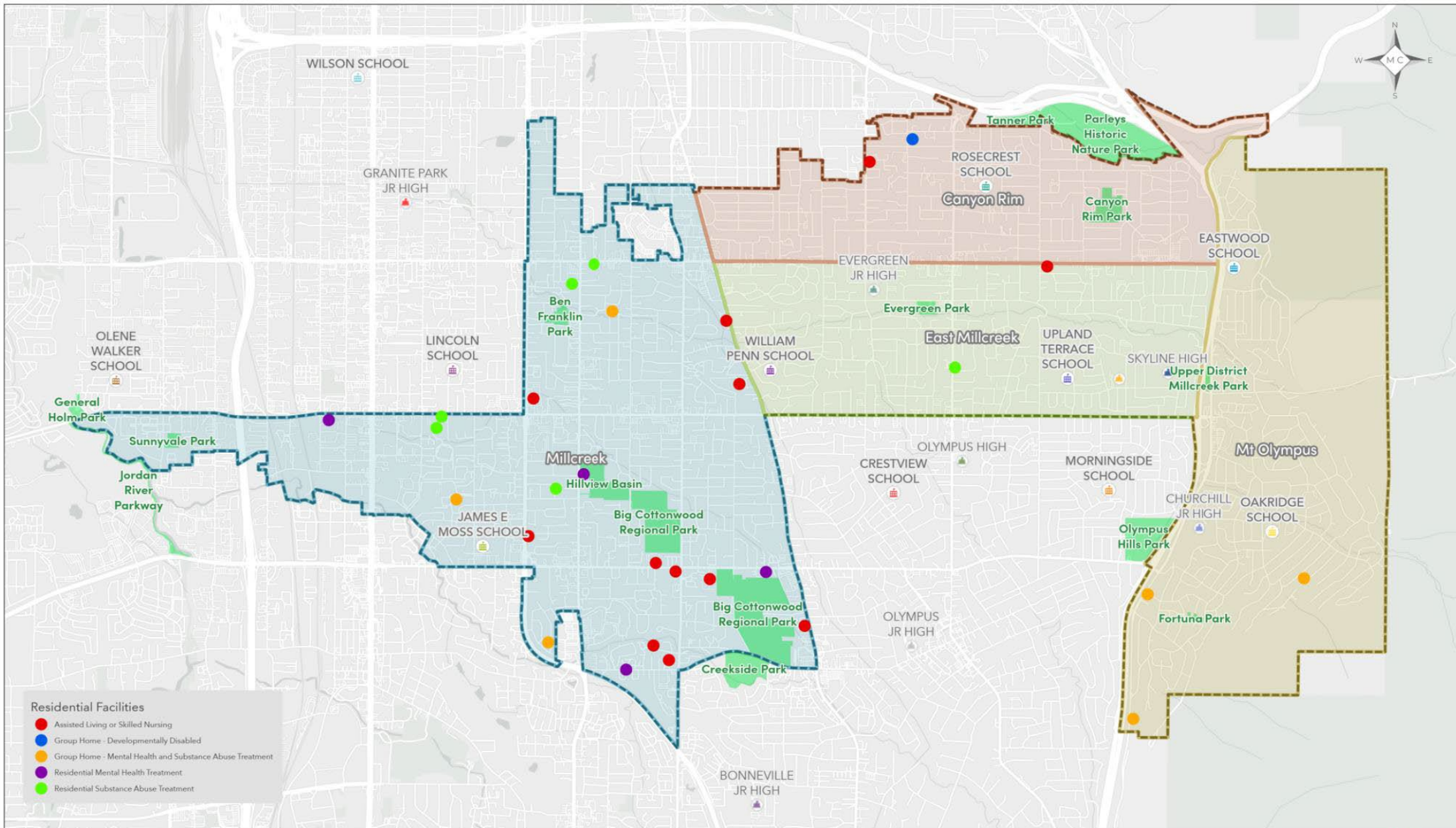
- ▶ Millcreek Code also does not contemplate a public hearing process or public input on a permitted use approval for a residential facility for persons with a disability.
- ▶ Why? As a rule, our civil and constitutional rights as Americans are not subject to public scrutiny.



Safety and Neighborhood Compatibility: Are there Residential Support Programs and other facilities for persons with a mental health disability in other Millcreek neighborhoods?

▶ Yes.





- Residential Facilities**
- Assisted Living or Skilled Nursing
 - Group Home - Developmentally Disabled
 - Group Home - Mental Health and Substance Abuse Treatment
 - Residential Mental Health Treatment
 - Residential Substance Abuse Treatment



RESIDENTIAL FACILITIES MILLCREEK, UT

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Author: Brian Busch - Millcreek GIS
Spatial Reference: NAD 1983 StatePlane Utah Central FIPS 4302 Feet
Path: C:\Users\lbusch\ArcGISPro\Project\Master\Project\Master.aprx

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Safety and Neighborhood Compatibility:

Is the facility suitable?

- ▶ Yes. This facility was legally constructed in 1999, and it has been subject to regular inspection by the Department of Health and the Fire Marshal ever since then.
- ▶ The building is well suited for a Residential Support Program, and received an inspection by city staff last week.
- ▶ The facility complied with the standards for open space in effect at the time it was initially permitted as a residential facility. That use is not changing, and we cannot require as a condition of approval the addition of any “green space.”



Safety and Neighborhood Compatibility:

Will there be security?

- ▶ Yes. There will be on-site and off-site security, and a code of conduct.
- ▶ Switchpoint will provide 24/7 on-site security in the form of professional staff who are trained in de-escalation and trauma informed care in a clinical setting. At least one member of staff will be uniformed security, and will monitor the front doors of the facility at all times.
- ▶ Guests will be limited to one at a time per resident, and visiting hours are limited to 8 am to 10 pm, and will be subject to a background check.



Safety and Neighborhood Compatibility:

How will Switchpoint work with UPD?

- ▶ Switchpoint, the City and the Unified Police Department will meet at least monthly to discuss what is working, and what is not working, at the facility.
- ▶ This proactive relationship between UPD, the City, and staff is a proven model we used for the Temporary Overflow Shelter last year, that helped reduce adverse impacts to the surrounding neighborhood.
- ▶ Active drug use and violent behavior are grounds for eviction from the program.



Safety and Neighborhood Compatibility: Will convicted sex offenders and violent criminals be admitted into the Residential Support Program?

- ▶ No.
- ▶ Switchpoint will perform background checks as part of the screening of every potential resident.



Safety and Neighborhood Compatibility: Will convicted sex offenders and violent criminals be admitted into the Residential Support Program?

- ▶ Individuals with sex offense, murder, or manslaughter convictions at any time in the past will not be allowed to participate in the program.
- ▶ Individuals with violent criminal charges in the last seven years will not be allowed to participate in the program.
- ▶ Individuals with distribution or theft charges within the last three years will not be allowed to participate in the program.



Facility Operations and Treatment Protocols:

How will residents be treated?

- ▶ Residents must be accepted into and participate with an Assertive Community Treatment (ACT) Team.
- ▶ An ACT Team is comprised of qualified medical, psychological and social work professionals who work with these individuals based upon a prescribed ratio of residents per team
- ▶ They ensure these individuals are receiving and maintaining treatment regimens, including medication, to stabilize them and address their mental health issues.



Facility Operations and Treatment Protocols:

How will residents be treated?

- ▶ The ACT Teams will be inside the facility every day, or nearly every day, to help residents on site.
- ▶ ACT teams operate in addition to the on-site staff. Residents may have the capability of going off-site for some aspects of their treatment, depending upon the individual and their need. Most of the residents will receive their treatment on-site from these outside professional team members. This is not unlike healthcare professionals who come on site to attend to residents of an assisted living facility for the elderly. It's just much more intense.



Facility Operations and Treatment Protocols:

How will residents be treated?

- ▶ In addition, the facility will provide programming to occupy residents during waking hours. Some of that may be field trips but it will be mostly on-site. For example, residents will be encouraged to assist with communal cooking, cleaning, etc. to the extent they are able.



Facility Operations and Treatment Protocols:

Can residents come and go as they please?

- ▶ Yes.
- ▶ The proposed residential facility is not a jail or a lockdown facility.
- ▶ Participation in this residential facility is voluntary, as it is in any other assisted living or skilled nursing facility.



Facility Operations and Treatment Protocols:

Can residents come and go as they please?

- ▶ Because the residents are paying rent and, in some cases working, Switchpoint cannot legally prevent a resident from leaving at certain hours.
- ▶ However, Switchpoint is including a code of conduct in their lease agreement that stresses the importance of being a good neighbor and respecting the property rights and privacy of their neighbors. In addition, the facility will be monitored at all times with staff at the front door.



The Haven:

Why did The Haven go out of business?

- ▶ The Haven was a privately owned for-profit business, and they closed for business reasons.
- ▶ This is part of a statewide and national trend of privately-owned assisted living facilities shutting down due to limited Medicaid reimbursements and a new focus on the part of Medicare and other insurance providers to pay for in-home care, as opposed to long-term care in a dedicated facility. Coupled with an end to CARES Act funding and increased labor costs, many assisted living facility providers are looking to sell facilities that are not profitable. According to the owner of the Haven, at least half of the residents at that facility were on Medicaid.



Millcreek Meadows
1644 E 4500 S



All Seasons of Millcreek
3681 S 2300 E



The Haven
1871 E 3300 S



Pacifica
777 East 3900 S



Osmond Senior Living
950 E 3300 S



The Haven:

What happened to the residents?

- ▶ The owner of the Haven informed us that every resident received a thirty-day eviction notice once the sale of the property commenced.
- ▶ The owner negotiated with four other assisted living facilities in or near Millcreek that their residents could move to the new facility at the same rate that they paid at the Haven. The Haven also negotiated waivers for move-in fees and community fees, and paid for moving expenses as well.
- ▶ Most residents availed themselves of available space at nearby facilities.



Summary:

- ▶ **We are obligated** to approve a permit for a Residential Facility for Persons with a Disability.
- ▶ **We will uphold** the civil rights of disabled Americans, and we will protect their fair access to housing. These are Millcreek values.
- ▶ **We expect** that Switchpoint will be a good neighbor and we will verify that Switchpoint continuously complies with all code and licensing requirements.
- ▶ **We will follow the law.**



Other Resources

- ▶ State Monitoring of Health Care Facilities and Human Services Programs:



- ▶ Joint Statement of the Department of Housing and Urban Development and the Department of Justice on State and Local Land Use Laws and Practices and the Application of the Fair Housing Act:

