

ORDINANCE NO. 2026-02

AN ORDINANCE OF THE CITY OF SUNSET ADDING CHAPTER 13: RESIDENTIAL FACILITY FOR PERSONS WITH A DISABILITY TO TITLE 3: BUSINESS AND LICENSE REGULATIONS; AND PROVIDING FOR RELATED MATTERS

RECITALS

WHEREAS, the City of Sunset ("City") desires to provide appropriate regulations for Residential Facilities for Persons with a Disability within its jurisdiction; and

WHEREAS, such regulations are necessary to comply with the Utah Fair Housing Act, the Americans with Disabilities Act, and the Federal Fair Housing Act; and

WHEREAS, the City Council finds that the adoption of this Ordinance is in the best interest of the public health, safety, and welfare;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SUNSET, STATE OF UTAH, AS FOLLOWS:

SECTION 1. AMENDMENT TO TITLE 3

Title 3: Business and License Regulations of the Sunset City Municipal Code is hereby amended by adding Chapter 13: Residential Facility for Persons with a Disability to read as follows:

CHAPTER 13: RESIDENTIAL FACILITY FOR PERSONS WITH A DISABILITY

3-13-1: DEFINITIONS

RESIDENTIAL FACILITY FOR PERSONS WITH A DISABILITY:

A residence in which more than one unrelated person with a disability resides, which is intended to provide living accommodations with a person with disabilities, and is licensed by the Utah State Department of Health and Human Services as provided in:

- a. Utah Code 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; and
- b. Utah Code 26B, Chapter 6, Part 4, Division of Services for People with Disabilities.

DISABILITY:

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 a problem or being regarded as having such an impairment. The following definitions are incorporated into the definition of disability:

- a. 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 USC 802, or as defined under Title 58, Chapter 37, Utah Code Annotated, 1953, as amended;
- b. A physical or mental impairment includes the following:
 - i. Any psychological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular, reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or
 - ii. Any mental or physiological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities; or
 - iii. Such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, human immunodeficiency virus (HIV), mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of controlled substances) and alcoholism.

REASONABLE ACCOMMODATION:

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:

- a. Reasonable: 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.
- b. Necessary: 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.
- c. Equal Opportunity: Achieving equal results as between a person with a disability and a nondisabled person.

3-13-2: ARTICLE H — GROUP HOMES AND OTHER FACILITIES

PURPOSE:

The purpose of this Chapter is to avoid discrimination in housing against persons with disabilities as provided in the Utah Fair Housing Act, the Americans with Disabilities Act, and the Federal Fair Housing Act.

USES AND LIMITATIONS:

The provisions and requirements of this Article shall not entitle or authorize a particular use on any property or parcel of land. Only such uses and facilities as are specifically authorized in each individual zone as a permitted or conditional use shall be allowed.

RESIDENTIAL FACILITY FOR PERSONS WITH A DISABILITY.

- 1) This section shall govern any facility, residence, or other circumstance that meets the definition of a residential facility for a person with a disability as set forth in this Code.

- 2) The following requirements shall apply to a residential facility for persons with a disability:
- a) The facility shall comply with building, safety, land use, and health codes or ordinances applicable to a similar dwelling, the Americans with Disabilities Act, applicable state core standards and licensing requirements, and any standards set forth in a contract with a state agency.
 - b) Minimum site development standards shall be the same as those for a dwelling unit in the zone in which the facility is located.
 - c) In a Residential Zone R-1, not more than three (3) unrelated persons shall occupy a residential facility for persons with a disability established in a dwelling unit.
 - d) In a Residential Zone R-3, a residential facility for persons with a disability shall not be located within a two-family or multi-family structure unless the entire structure is used for the facility. Not more than three (3) unrelated persons per permitted dwelling unit shall occupy a facility for persons with a disability.
 - e) The facility shall not be made available to a person who has demonstrated by prior or current behavior, actions, and/or criminal incidents or convictions, that the person's tenancy would:
 - i) Be a direct threat to the health or safety of other persons; or
 - ii) Result in substantial physical damage to the property of others.
 - f) Prior to occupancy of the facility, the person or entity licensed or certified by the Department of Human Services and/or the Department of Health to establish and operate the facility shall:
 - i) Provide a certified copy of such license or certification to the City Recorder;
 - ii) Certify, in a sworn affidavit submitted with the application for a business license, that the facility complies with the Americans with Disabilities Act; and
 - iii) Certify, in a sworn affidavit submitted with the application for a business license, that no person will be placed or remain in the facility who has demonstrated by prior or current behavior, actions, and/or criminal incidents or convictions, that such person's tenancy would be a direct threat to the health or safety of other persons, or result in substantial physical damage to the property of others. Such affidavit shall be supplemented and updated with an application for renewal of the business license.
 - g) A permit for a residential facility for persons with a disability is nontransferable and shall terminate if:
 - i) The structure is devoted to a use other than a residential facility for persons with a disability;
 - ii) The structure fails to comply with the requirements set forth in this Section; or conforming multi-family dwelling structure unless it is first converted to a conforming single-family dwelling structure.
 - iii) The license or certification issued by the Department of Human Services, Department of Health or any other applicable agency, terminates or is revoked.
 - h) A residential facility for persons with a disability that is a substance abuse facility may not be located within one thousand feet (1,000') of a school, commercial daycare or house of worship.
 - i) A residential facility for persons with a disability shall not be located within two thousand feet (2,000') from another such facility, measured in a straight line between the nearest property lines of each facility.
 - j) Any residential facility for persons with a disability shall provide:
 - i) A security plan satisfactory to local law enforcement authorities; and

ii) Twenty-four (24) hour security measures.

3) None of the foregoing conditions shall be interpreted to limit any reasonable accommodation necessary to allow the establishment or occupancy of a residential facility for persons with a disability. A request for a reasonable accommodation shall be made in accordance with the provisions set forth in the Americans with Disabilities Act of 1990 and the Fair Housing Act.

SECTION 2. EFFECTIVE DATE

This Ordinance shall take effect upon its passage, approval, and publication as required by law.

PASSED AND ADOPTED by the City Council of the City of Sunset, State of Utah, on the 19th day of May, 2026.

APPROVED:

_____ Mayor
Print Name: _____

ATTEST:

_____ City Recorder/Clerk
Print Name: _____

CERTIFICATE OF PUBLICATION

I, the undersigned City Recorder/Clerk of the City of Sunset, State of Utah, do hereby certify that the foregoing Ordinance No. 2026-02 was duly passed and adopted by the City Council on the 19th day of May, 2026, and was published/posted as required by law on the _____ day of _____, 20____.

_____ City Recorder/Clerk
Date: _____