



SALT LAKE COUNTY Public Works
Planning & Development Services Division
PUBLIC WORKS <http://www.utah.gov/pmn/index.html>

Emigration Township Planning Commission

Public Meeting Agenda
December 13, 2012
8:30 A.M.

THE MEETING WILL BE HELD IN THE COUNTY COUNCIL CHAMBERS, COUNTY GOVERNMENT CENTER, MAIN FLOOR, ROOM #N1100, 2001 SOUTH STATE STREET.
ANY QUESTIONS, CALL 468-2000

REASONABLE ACCOMMODATIONS FOR INDIVIDUALS WITH DISABILITIES WILL BE PROVIDED UPON REQUEST. FOR ASSISTANCE, PLEASE CALL 468-2120 OR 468-2351: TDD 468-3600.

The purpose of the Planning Commission Meeting is to allow the Planning Commission to hear staff, applicant, public, and other agency comments and recommendations prior to making decisions and/or recommendations on land use applications and projects on file with Salt Lake County. The Planning Commission may take action on any agenda item which may include: approval, approval with conditions, denial, continuance or a recommendation to other bodies or agencies as applicable. Public comment is not normally on the business portion of the agenda.

Business Items – Starting at 8:30 A.M.

- 1) Adoption of Minutes from the October 11, 2012 Meeting
- 2) Introduction of New Planning Commission Coordinator – Jocelyn Magoni
- 3) Other Business

Public Hearing Items (Starting immediately following Business Items)

28225 – Salt Lake County is requesting amendments to the Zoning Ordinance to: **1) replace references to “residential health care facilities” with “residential facilities for persons with a disability”;** **2) to establish review and approval criteria for the location and regulation of such facilities in harmony with Federal requirements; and, 3) to amend the definition of “family” to be consistent with State Law.** This includes amendments to sections 19.04.230, 19.04.453, 19.08.020, 19.10.020.G, 19.12.020.G, 19.14.020, 19.32.020, 19.38.020, 19.40.020, 19.48.020, 19.50.020, 19.52.020, 19.54.020.F, 19.55.030.A, 19.14.030, 19.32.030, 19.48.030, 19.38.030, 19.40.030 and 19.44.030 and the addition of Chapter 19.87 RESIDENTIAL FACILITIES FOR PERSONS WITH A DISABILITY to the Salt Lake County Zoning Ordinances.

Meeting Adjournment

Rules of Conduct for the Planning Commission Meeting

- First: Applications will be introduced by a Staff Member.
- Second: The applicant will be allowed up to 15 minutes to make their presentation.
- Third: The Community Council representative can present their comments.
- Fourth: Persons in favor of, or not opposed to, the application will be invited to speak.
- Fifth: Persons opposed to the application will be invited to speak.
- Sixth: The applicant will be allowed 5 minutes to provide concluding statements.
- Speakers will be called to the podium by the Chairman.
 - Because the meeting minutes are recorded it is important for each speaker to state their name and address prior to making any comments.
 - All comments should be directed to the Planning Commissioners, not to the Staff or to members of the audience.
 - For items where there are several people wishing to speak, the Chairman may impose a time limit, usually 2 minutes per person, or 5 minutes for a group spokesperson.
 - After the hearing is closed, the discussion will be limited to the Planning Commission and the Staff.

Emigration Township Planning Commission
2012 Meeting Schedule

General Meeting Information:

1. All meetings are scheduled to start at 8:30 A.M. (Business items) and Public Hearing items will be scheduled to start at 9:00 A.M.
2. All meetings will be held in the County Council Chambers, County Government Center (2001 S. State), Main Floor, Room # N1100
3. If the time, date or location of a meeting is changed for any reason, notification of that change will be sent to the Planning Commission in advance.
4. In the event that a meeting is cancelled for any reason, notification of that cancellation will be sent to the Planning Commission in advance.

Emigration PC Meeting Dates for 2012:

- Thursday, January 12, 2012
- Thursday, February 16, 2012
- Thursday, March 15, 2012
- Thursday, April 12, 2012
- Thursday, May 17, 2012
- Thursday, June 14, 2012
- Thursday, July 12, 2012
- Thursday, August 16, 2012
- Thursday, September 13, 2012
- Thursday, October 11, 2012
- Thursday, November 15, 2012
- Thursday, December 13, 2012



STAFF REPORT

Executive Summary									
Hearing Body:	Emigration Canyon Township Planning Commission								
Meeting Date and Time:	Thursday, December 13, 2012	08:30 AM	File No:	2	8	2	2	5	
Applicant Name:	Salt Lake County		Request:	Ordinance Amendment					
Description:	Residential Facilities for Persons with Disability								
Location:	Township-wide								
Community Council Rec:	Approval								
Staff Recommendation:	Approval								
Planner:	Curtis Woodward								

1.0 BACKGROUND

1.1 Summary

This ordinance came about as a result of concerns from county residents regarding “group homes” existing within unincorporated Salt Lake County. There has been a lot of confusion over “group homes” and what the county can and cannot do with regard to licensing and enforcement. This ordinance clarifies the approval process --establishes a process when applying for a group home and defines the role of the county and state in this application and licensing process. This proposed ordinance also eliminates enforceable provisions in compliance with federal law and recent federal cases.

The goal of this ordinance is to clarify and delineate requirements for these group homes, while complying with state and federal laws. In a nutshell, this ordinance invites group homes as a permitted use/reasonable accommodation in any single family neighborhood in unincorporated Salt Lake County so long as the home meets state licensing standards and local building codes and does not offer outpatient treatment services. It also adjusts the definition of "family" to be in line with the requirements of Utah Code (allowing up to 4 unrelated people to live together as a "family.")

1.3 Community Council Response

The Emigration Canyon Community Council (ECCC) reviewed the proposed Ordinance at their meeting of November 13, 2012. The ECCC is forwarding a positive recommendation to the Emigration Township Planning Commission in regard to the proposed Ordinance.

2.0 ANALYSIS

2.1 Existing Ordinance

- 1) The definition of "family" includes up to 3 unrelated people living together in a dwelling unit.
- 2) Terms such as "Residential Health Care Facility" are defined in section 19.04, and are listed as permitted or conditional uses based on the number of residents and the size of the right of way on which they are

located.

- 3) Residential facilities for persons with a disability are allowed in residential zones, provided that each such facility shall not be located within 1/2 mile of a similarly licensed facility.
- 4) Residential facilities for persons with disability, while allowed as permitted uses, do not have in current ordinance any standards, criteria, or regulation (other than the spacing restriction mentioned above).

2.2 Proposed Ordinance

- 1) The definition of "family" is being amended as required by Utah Code (17-27a-505.5) to allow up to 4 unrelated people to live together in a dwelling unit.
- 2) The definition of "residential health care facility" is being removed, and references to such facilities in various zones are also being removed (as being redundant in light of the fact that these facilities are included in the definition of "residential facilities for persons with disabilities."
- 3) The 1/2 mile separation requirement between facilities is being removed from the ordinance (as recent court cases have determined that this kind of provision is illegal).
- 4) A new chapter is being proposed to establish approval criteria and use standards for residential facilities for persons with disabilities. It includes provisions for ensuring state licenses are obtained, dealing with "nuisance" properties, parking and traffic concerns, and appeals.

3.0 STAFF RECOMMENDATION

3.1 Staff recommends APPROVAL of the proposed Ordinance Amendment .

3.2 Reasons for Recommendation

- 1) Having studied the issues at hand, including the Fair Housing Act and Americans with Disabilities Act as well as recent court decisions, the proposed ordinance was drafted by the District Attorney's Office as a reasonable regulatory ordinance that will provide the public and the County guidance as to how and where residential facilities for persons with disabilities may be located.

WORKING DRAFT 9

SALT LAKE COUNTY ORDINANCE

ORDINANCE NO: _____, 2012

RESIDENTIAL FACILITIES FOR PERSONS WITH A DISABILITY

AN ORDINANCE AMENDING DEFINITIONS AND ADDING A NEW CHAPTER IN TITLE 19 ENTITLED "ZONING" OF THE SALT LAKE COUNTY CODE OF ORDINANCES, PROVIDING THAT THE DIRECTOR SHALL CONSIDER REQUESTS FOR A PERMITTED USE/REASONABLE ACCOMMODATION FOR THE DISABLED RELATIVE TO THEIR OCCUPATION OF A GROUP HOME.

The County Council, as the legislative body of Salt Lake County ordains as follows:

SECTION I. The amendments made herein are designated by underlining the new enacted words. Words being deleted are designated by brackets with a line drawn through said words.

SECTION II. Section 19.04.230 is hereby amended and section 19.04.453 of the Salt Lake County Code of Ordinances, 2001, is hereby deleted as follows:

19.04.230 - Family.

"Family" means:

A. Any number of people living together in a dwelling unit and related by blood, marriage or adoption, and including up to [~~two~~] three additional unrelated people; or

B. One to [~~three~~] four unrelated people living together in a dwelling. Each unrelated person owning or operating a motor vehicle shall have a lawfully located off-street parking space.

~~[19.04.453 — Residential health care facility.~~

~~A. — "Residential health care facility" means a facility providing assistance with activities of daily living and social care to two or more residents who require protected living arrangements.~~

WORKING DRAFT 9

~~B. — Each bedroom in a residential health care facility shall contain the minimum square feet of floor space per resident as set forth in the Utah Administrative Code health facility licensure rules, or any successors, with a maximum of two residents per bedroom.]~~

SECTION III. Sections 19.08.020, 19.10.020.G, 19.12.020.G, 19.14.020, 19.32.020, 19.38.020, 19.40.020, 19.48.020, 19.50.020, 19.52.020, 19.54.020.F, and 19.55.030.A of the Salt Lake County Code of Ordinances, 2001, are hereby amended by deleting the following condition to a permitted use:

~~-- Residential facility for persons with a disability. [, provided that each such facility shall not be located within one half mile of a similarly licensed residential facility for persons with a disability.]~~

SECTION IV. Sections 19.14.030, 19.32.030 and 19.48.030 of the Salt Lake County Code of Ordinances, 2001, are hereby amended by deleting the following conditional use:

~~[—Residential health care facility for up to five residents on streets less than eighty feet in width, and up to ten residents on streets eighty feet and wider, excluding the facility operator and his/her related family with a maximum of one nonresident part-time relief employee on the premises at any one time unless additional staffing is required by the Utah Department of Health, which use shall not change the residential appearance and character of the property;]~~

SECTION V. Section 19.38.030 of the Salt Lake County Code of Ordinances, 2001, is hereby amended by deleting the following conditional use:

~~[—Residential health care facility for up to five residents excluding the facility operator and his/her related family with a maximum of one nonresident part-time relief employee on the premises at any one time, which use shall not change the residential appearance and character of the property;]~~

SECTION VI. Sections 19.40.030 and 19.44.030 of the Salt Lake County Code of Ordinances, 2001, are hereby amended by deleting the following conditional use:

~~[—Residential health care facility;]~~

SECTION VII. Chapter 19.87 of the Salt Lake County Code of Ordinances, 2001, is hereby enacted to read as follows:

Chapter 19.87

RESIDENTIAL FACILITIES FOR PERSONS WITH A DISABILITY

Sections:

- 19.87.010 Purpose.**
- 19.87.020 Scope.**
- 19.87.030 Definitions.**
- 19.87.040 Licensing for Residential Facilities.**
- 19.87.050 Uses.**
- 19.87.060 Termination**
- 19.87.070 Residential day treatment.**
- 19.87.080 Parking.**
- 19.87.090 Appeals.**

19.87.010 Purpose.

The purpose of this chapter is to balance local zoning considerations with state and federal mandates requiring a reasonable accommodation for disabled persons living together in a group housing arrangement in a residential neighborhood.

19.87.020 Scope.

The requirements of this chapter apply to any facility, residence, group home or other congregate housing arrangement for persons with a disability notwithstanding any conflicting provision in this title or any other section of this code of ordinances.

19.87.030 Definitions.

“Disability” is defined in 19.04.168, “family” in 19.04.230, and “residential facility for persons with a disability” in 19.04.452 of this title.

19.87.040 Licensing for Residential Facilities

The licensing requirements for “Residential Treatment Programs” and “Residential Support Programs” are defined and administered pursuant to State law and the Utah Administrative Code.

19.87.050 Uses.

A. No permit required. Four or less unrelated individuals who share housekeeping responsibilities in a single dwelling do not require a zoning permit but function as a “family,” defined in Section 19.04.230 of this title as “one to four unrelated people living together in a single dwelling.”

B. The director of planning and zoning (“the director”), with the assistance of the district attorney, shall consider requests for a permitted use/reasonable accommodation for a “residential facility for persons with a disability” (“facility”). The director or the director’s designee shall approve a proper application for a zoning permit for the facility in any zone, including residential zones where only single family dwellings are a permitted use, provided:

1. The facility meets or will meet all program, physical facility, and licensure requirements of the state Department of Human Services or Department of Health.

2. Except as otherwise provided in this chapter, buildings and uses shall meet all applicable county development standards, licensing and zoning requirements.

3. The facility shall not house persons who are involuntarily residing therein or who are residing therein as a part of or in lieu of confinement, rehabilitation, or treatment in a correctional facility.

4. The applicant provides sufficient evidence that the requested accommodation is necessary to allow disabled individuals reasonable, non-discriminatory, federally mandated housing opportunities in the relevant zone. Evidence may include information relating to the history, management, financial feasibility, and therapeutic benefits of the facility, and applicable law.

C. The director or the director’s designee may not deny the application based upon reasonably anticipated detrimental effects to the community so long as reasonable conditions are proposed to mitigate such anticipated detrimental effects.

D. Institutional uses. Consistent with the International Building Code, residential facilities designed to house more than sixteen individuals constitute “institutional facilities” likely to create a fundamental change in the character of a single family residential neighborhood. The only residential zone where an application for a conditional use permit for an institution serving more than sixteen residents may be approved is in a zone that allows apartments as a conditional or permitted use.

19.87.060 Termination.

A use permitted by this chapter is nontransferable and shall be subject to revocation by the appropriate land use or licensing authority if:

A. The facility is devoted to a use other than a residential facility for persons with a disability, or

B. The facility exceeds the maximum number of residents specified and approved in the original application, changes the disability classification under state rules, or remodels or expands without first receiving approval from the director.

C. The facility is not licensed by the state Department of Health or Department of Human Services.

D. It is determined by an appropriate county authority that residents of the facility have engaged in a pattern of criminal acts of nuisance, theft, or violence in the adjoining neighborhood.

19.87.070 Residential day treatment.

To avoid excessive traffic, on street parking, and related impacts altering the residential character of a neighborhood, no day treatment for non-residents shall be permitted in residential facilities for the disabled in the R-1 or R-2 residential zones.

19.87.080 Parking.

The minimum number of parking spaces shall be four spaces plus one space for each five residents, provided that if the number of residents who own or operate a motor vehicle exceeds the number of parking spaces established above, additional parking shall

be provided to ensure that every resident who owns or operates a motor vehicle has a lawfully located off-street parking space.

19.87.090 Appeals.

Pursuant to section 19.92.050 of this Title for permitted uses, any person adversely affected by a final decision of the zoning authority may appeal that decision to the board of adjustment.

SECTION VIII. This ordinance shall become effective fifteen (15) days after its passage and upon at least one publication of the ordinance or a summary thereof in a newspaper published and having general circulation in Salt Lake County.

APPROVED and ADOPTED this _____ day of _____, 2012.

SALT LAKE COUNTY COUNCIL

By _____
David Wilde, Chair

ATTEST:

Sherrie Swensen
County Clerk

Approved as to form and legality:

Thomas L. Christensen
Deputy District Attorney
Date: _____

Voting:
Council Member Bradley voting _____

WORKING DRAFT 9

Council Member Bradshaw voting _____
Council Member Burdick voting _____
Council Member DeBry voting _____
Council Member Horiuchi voting _____
Council Member Iwamoto voting _____
Council Member Jensen voting _____
Council Member Snelgrove voting _____
Council Member Wilde voting _____

Vetoed and dated this _____ day of _____, 2012.

By _____
Mayor Corroon or Designee

(Complete as Applicable)

Veto override: Yes___ No___ Date_____

Ordinance published in newspaper: Date_____

Effective date of ordinance: _____

DRAFT