



Public Works
Planning & Development Services Division
<http://www.utah.gov/pmn/index.html>

Salt Lake County Planning Commission

Public Meeting Agenda

December 12, 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 385-468-6700

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

The Planning Commission Public Meeting is a public forum where the Planning Commission receives comment and recommendations from applicants, the public, applicable agencies and County staff regarding land use applications and other items on the Commission's agenda. In addition, it is where the Planning Commission takes action on these items. Action may be taken by the Planning Commission on any item listed on the agenda which may include: approval, approval with conditions, denial, continuance or recommendation to other bodies as applicable.

Business Items – 8:30 a.m.

- 1) Adoption of minutes from the November 14, 2012 meeting.
- 2) Introduction of New Planning Commission Coordinator – Jocelyn Magoni
- 3) 2013 Meeting Schedule
- 4) Salt Lake County General Plan update
- 5) Other Business

Public Hearings – (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.



STAFF REPORT

Executive Summary									
Hearing Body:	Salt Lake County Planning Commission								
Meeting Date and Time:	Wednesday, December 12, 201	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:	Countywide								
Community Council Rec:	Varies								
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

Please see attached documentation from Community Councils and Residents. The following is staff recollection of the recommendations made at the respective meetings.

Sandy Hills - found the ordinance to be totally unacceptable.

Willow Canyon - recommended approval.

Big Cottonwood - recommended in favor.

Parleys Canyon - did not have a regularly scheduled meeting however the Chair indicated that they did not anticipate any concerns as the ordinance was not seen as expressly applicable to their community (ies).

Willow Creek - Some community council members have expressed concerns with the ordinance but no official response has been received from this group.

Granite and White City Community Councils - neither have had an opportunity to meet as of the writing of this report. Their responses should be available at the Planning Commission Meeting.

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.



Sandy Hills Community Council

Sandy Hills Community Council, P.O. Box 900904, Sandy, Utah 84090-0904

November 15th, 2012

Dear Mayor Carroon, SLCo. Council, and SLCo. Planning and Zoning Dept.,

On November 14th, 2012 at the Sandy Library our Community Council met for it's monthly board meeting attending to it's regular Council business. We had a last minute request from Todd Draper of the SLCo. Planning and Zoning Dept. to present, for our review a DRAFT proposal of a SLCo. Ordinance amendment to the "Residential Facilities For Persons with a Disability." (Working Draft 9)

After an intense discussion amongst our Council member's and initial review of the Ordinance change, we (the Sandy Hills Community Council) have voted against supporting the Ordinance change at this time. The Sandy Hills community Council would ask that the Mayor, SLCo. Council and the SLCo. Planning and Zoning Dept. as well as the District Attorney's Office all reexamine the effects this Ordinance change may have on all sides, especially for those who have disabilities.

We believe that further discussion needs to happen and allowing this Ordinance more time to be thoroughly examined and run through it's normal due process. We are aware that there are those who would want to expedite the process for passage of this Ordinance change. However, we the Sandy Hills Community Council caution the County's engagement in areas of potential liabilities. We ask that this Ordinance change be "TABLED" for further discussion.

Sincerely Yours,



Ron Faerber, Secretary (Chair Pro Tem.)
801-568-0613

From: Carl Rossi [REDACTED]
Date: November 15, 2012 11:50:33 AM MST

Let the county know:

I vote against the letter being from the Sandy Hills Community Council. A letter like this from Ron is fine.

First and foremost, there was no discussion. There was over a half hour of Ron telling us how terrible the ordinance was.

Second, we were asked for a council review, not a legal review. The above tirade was mostly trying to find legal loopholes that didn't exist or were easily adjusted by the use of exemptions. These changes of ordinance will go through a legal department prior to passing.

Third, as someone whose childhood is shadowed by three years of living next door to a "drug recovery" house, I support the residents' complaint and any attempt to keep their neighborhood safe from petty theft and fear. As someone whose emphasis in college was the physiology of addiction, I do not see their complaint as in anyway related to discrimination against those with disabilities.

Fourth, the majority of the change has to do with public impact areas such as parking, traffic, and residential use. All of these fall well within the limits of what a county is expected to regulate. Federal laws prevent zoning discrimination against such homes, but do not give the owners free license to do whatever they want with the property. They must still abide by most residential and home owner standards of living.

Fifth, I decry the harsh and unprofessional treatment that was given to our county zoning representative.

Finally, I note again that Ron has too much personal interest in this matter and is totally unable to keep a professional head in this matter. I saw responses made out of fear and anger, neither of which have a place in a volunteer council.

That said, I have a small worry about the impact it might have the house for autistic adults near my residence. The parking stipulation might cause some difficulty. I haven't had time to check yet, but my suggestion is that current residences be given a grace period to apply to be grandfathered in on this section as homes have been purchased without such consideration and reselling such homes in the current market can be cruel.

Thanks in advance,

Carl Rossi

Sandy Hill Community Council

District Five Rep

Todd Draper

From: Jean [REDACTED]
Sent: Friday, November 16, 2012 7:27 PM
To: Todd Draper
Subject: residence home ordinance changes

Todd,

The Willow Creek Community Council has been informed that changes are being made to the Residence Home Ordinance.

Since we have a Sober House in our community, many neighbors are concerned about these changes.

Can you give me any information as to why these changes are being made? Our neighborhood is particularly concerned about the changes to the half mile separation between homes.

Jean Bayles
Council Member
Willow Creek Community Council

From: Barbara Cameron [REDACTED]
Sent: Saturday, November 17, 2012 3:47 PM
To: David Gellner; Jani Iwamoto
Subject: Residential Facilities for Persons with a Disability

Dear Jani and David,
Big Cottonwood Community Council recommended approval on the proposed ordinance for Residential Facilities for Persons with a Disability. We especially appreciated the proposed parking requirements. Also there seemed to be no objection to the change of definition of "Family" throughout the entire Zoning Ordinance. Thank you for helping bring the county zoning ordinance into compliance with federal and state requirements.
Barbara Cameron, President
Big Cottonwood Community Council

Todd Draper

From: connie merrill [REDACTED]
Sent: Sunday, November 18, 2012 1:13 PM
To: Todd Draper
Subject: RE: Willow Creek Community Council Meeting

Todd,

Our community council met yesterday morning to discuss the ordinance changes, and basically we found little to be happy about. We would love to have you and the attorney who drafted these changes meet with us at your convenience - preferably before our Dec. 4 meeting. We will work around your schedule.

We also want to talk to Sam Granato, our new representative and the new Mayor to alert them to the changes and our concerns.

We are a little concerned that the date for the planning meeting is so soon, given the complexity of the problem and our need to understand the federal and state rules. Can it be postponed for a later time?

Hoping to hear from you soon.

Connie

From: TDraper@slco.org
To: [REDACTED]
CC: [REDACTED]
Subject: Willow Creek Community Council Meeting
Date: Tue, 13 Nov 2012 17:28:53 +0000

Dale,

Attached you will find a copy of a new ordinance that is being proposed for group homes. I need to get it on the agenda of your next community council meeting for discussion and recommendations. I believe that December 4th is your next meeting. Will you please confirm the date, time and place for me. We would like to try and have a staff representative available to present it to the group if that is possible. This will be going before the Planning Commission at their December 12, 2012 meeting. Thanks.

Sincerely,

Todd A. Draper
Wasatch Canyons General Plans Manager
Salt Lake County Planning & Development Services
2001 S. State Street, Suite N-3600
Salt Lake City, UT 84190
Desk/Voicemail: (801) 468-2818
Email: TDraper@slco.org
Follow me on Twitter: [@PlannerToddDC](https://twitter.com/PlannerToddDC)

Date: November 21st, 2012

TO: Jani Iwamoto, SLCo. Council, Community Council's, and To Whom It May Concern,

FROM: Ron Faerber

RE: Salt Lake County Ordinance (Working Draft 9) Chapter 19.87, "Residential Facilities For Persons with a Disability."

Dear Jani, SLCo. Council, Community Council's, and To Whom It May Concern,

On November 14th, 2012 at the Sandy Library our Community Council met for it's monthly board meeting attending to it's regular Council business. We had a last minute request from Todd Draper of the SLCo. Planning and Zoning Dept. to present, for our review a DRAFT proposal of a SLCo. Ordinance amendment to the "Residential Facilities For Persons with a Disability." (Working Draft 9)

After an intense discussion amongst our Council member's and initial review of the Ordinance change, the Sandy Hills Community Council voted AGAINST supporting this Ordinance change at this time. I (Ron Faerber), would ask that the Mayor, SLCo. Council and the SLCo. Planning and Zoning Dept. as well as the District Attorney's Office all reexamine the effects this Ordinance change may have on all sides, especially for those who have disabilities.

After further review and discussion with Professionals in the field of Disability Law, and Disability Advocacy surrounding this DRAFT Ordinance, I would like to provide a summary of those opinions and conclusions of the possible problem's with this particular Regulation.

1.) Ordinance DRAFT Introduction.

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.

While, assuming the intention of this Salt Lake County Ordinance is by all means meant to provide good guidance and regulation of an area which may seem unregulated, it is my understanding that "Chapter19.85" - Home Business" of the Salt Lake County Code already covers this very type of home business. This Code already regulates standards and enforcement for this type of business.

2.) Definition's: "Family" means:

- A. Any number of people living together in a dwelling unit and related by blood, marriage or adoption, and including up to three additional unrelated people; or
- B. One to 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.

The Definition's of this Ordinance in particular, sets up the entire SCOPE of this regulation. It has been explained to me that this Ordinance is the County's attempt to regulate how many disabled individuals can live together under the same roof before requiring them to file a Zoning Permit as a Group Home. While, there is probably many such living arrangements in the Salt Lake County area, the very basis of this Ordinance violates those individual's rights.

Ex. You would not require five "Black" individual's who share a five bedroom home to now file for a Zoning Permit.

Once a Governing body begins to dictate the individual rights of a person and who, what, how, when and where a person chooses to live it begins to step across that line of certain unalienable rights of the individual. Government's are instituted to secure these rights and be a power to form principles likely to effect the peoples safety and happiness.

If this Ordinance is to move forward then it needs to clearly state that this is for "Business or Commercial Facilities" only. To impose such requirements on disabled individuals who are not commercially motivated is Discrimination.

- 3.) If this Ordinance is to move forward it should retain parts of 19.04.453:
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 licenser rules, or any successors, with a maximum of two residents per bedroom.

Note: This portion should be kept in place to protect individuals with disabilities from poor "Housing Quality Standards." Again, this is only for Commercially Operated Group Homes.

- 4.) If this Ordinance is to move forward it should retain parts of 19.08.020, 19.10.020, 19.12.020, 19.14.020, 19.32.020, 19.38.020, 19.40.020, 19.48.020, 19.50.020, 19.52.020, 19.54.020, and 19.55020:

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, **unless a Reasonable Request for an accommodation is submitted by or for the individual with disabilities.**

Note: This portion should be kept in place for two reason's.

- 1.) People with Disabilities need to live with dignity and society should not "Cluster" them in areas of our community. They should not be segregated, but should be coalesced in the most integrated setting possible. While "Clustering" may be beneficial to a business, it is discriminatory by it's very nature.

Ex. You would not want to cluster "Black" families in one area of Salt Lake County.

- 2.) By allowing a business to "Cluster" it's group homes in residential neighborhoods, we begin to see a more unfavorable impacts on the immediate surrounding areas.

Ex. Allowing a business "Group Home Facility" to buy up an entire street of homes in a particular area.

Note: Again, this only applies to "Commercially Operated Group Homes."

CHAPTER 19.87

RESIDENTIAL FACILITIES FOR PERSONS WITH A DISABILITY

5.) 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.

Note: The intent of this paragraph is misleading. While the purpose of this Ordinance seems all good and well, it is apparent to me now that a "Group Housing Arrangement" means individuals with disabilities wanting to live together or share a residence and has nothing to do with a commercially motivated Group Home. While the intent of this paragraph seems encouraging the meaning of it and it's language are discriminatory. Thereby, making the very purpose of this Ordinance Illegal.

However, the meaning can be changed by a simple modification:

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 **commercially run** group housing arrangement in a residential neighborhood.

Note: In fact the very title of this Chapter should be: "Commercially Run Residential Facilities for Persons with Disabilities." By not specifying that this Ordinance is specifically for businesses, you are implying that individuals with disabilities do not have the same unalienable rights as anyone else. You wouldn't create an Ordinance whose purpose and scope was to set requirements that apply to a congregate housing arrangement for persons that are Black, Hispanic, Gay, or Latino.

6.) 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.

Note: Again, pointing out that "other congregate housing arrangement" is not clearly defined and suggests this ordinance is singling out individuals with disabilities who are not living in a Commercially run Group Home.

7.) 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."

Ex. You would not require five "Jewish" or "Mormon" individuals who share a five bedroom home to now file for a zoning permit.

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

Ex. You would not require five "Mormon Missionaries" who share a five bedroom home to now file for, not only a zoning permit, but also a business license in order to live together and share a home together.

Note: Not only is most of this section which covers "USES" discriminatory under the Ordinances current language, but the entire premise of this Ordinance is Discriminatory. The intent of this Ordinance, to which is to regulate how many individuals with disabilities can use and enjoy a residence is in violation of State and Federal Fair Housing Laws, State and Federal Laws on Civil Rights, Federal Laws governed under Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act. Imposing regulations because you have a disability is a clear violation of an individuals rights.

Note: Again, if this is for a Commercially Operated Group Home or a Business that Operates a Group Home then this Ordinance would make much more sense.

I hope this evaluation, of the new County Ordinance, helps you to make a better informed decision and helps those with issues to reach a better resolution.

Sincerely,
Ron Faerber

Todd Draper

From: Jean [REDACTED]
Sent: Tuesday, November 27, 2012 6:54 PM
To: Todd Draper
Subject: Group Home Ordinance

Todd,

As discussed at the meeting yesterday with Jani, I feel it would be helpful to take more time to consider the proposed changes to the Group Home Ordinance, and not vote on it in December of this year.

I also think it would be a good idea for neighbors and for the group homes themselves to keep the half mile separation ordinance in place. That way the group homes won't be clumped in a neighborhood, but rather spread throughout.

Thank you,

Jean Bayles
Member
Willow Creek Community Council

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