

CITY AND COUNTY ZONING OF HEALTH CARE CENTERS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Robert M. Muhlestein

AN ACT RELATING TO CITIES AND TOWNS AND COUNTIES; MODIFYING A PERMISSIBLE RESTRICTION ON RESIDENTIAL FACILITIES FOR ELDERLY PERSONS; EXPANDING THE DEFINITION OF RESIDENTIAL FACILITY FOR PERSONS WITH A DISABILITY; EXPANDING THE SET OF FACILITIES AFFECTED BY THE REQUIREMENT THAT MUNICIPALITIES AND COUNTIES ADOPT AN ORDINANCE FOR RESIDENTIAL FACILITIES FOR PERSONS WITH A DISABILITY; RESTATING THE RESPONSIBILITY OF THE DEPARTMENT OF HEALTH WITH RESPECT TO FACILITIES LICENSED BY THE DEPARTMENT OF HEALTH; AND MAKING TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

10-9-502, as last amended by Chapter 108, Laws of Utah 1997

10-9-605, as enacted by Chapter 108, Laws of Utah 1997

17-27-502, as last amended by Chapter 108, Laws of Utah 1997

17-27-605, as enacted by Chapter 108, Laws of Utah 1997

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **10-9-502** is amended to read:

10-9-502. Municipal ordinances governing elderly residential facilities.

(1) Each municipality shall adopt ordinances that establish that a residential facility for elderly persons is a permitted use in any area where residential dwellings are allowed, except an area zoned to permit exclusively single-family dwellings.

(2) The ordinances shall establish a permit process that may require only that:

(a) the facility meet all applicable building, safety, zoning, and health ordinances applicable to similar dwellings;

(b) adequate off-street parking space be provided;

(c) the facility be capable of use as a residential facility for elderly persons without

structural or landscaping alterations that would change the structure's residential character;

(d) ~~[no] residential [facility] facilities for elderly persons be [established within three-quarters mile of another residential facility for elderly persons or residential facility for persons with a disability, as defined by Section 10-9-605]~~ reasonably dispersed throughout the municipality;

(e) no person being treated for alcoholism or drug abuse be placed in a residential facility for elderly persons; and

(f) placement in a residential facility for elderly persons be on a strictly voluntary basis and not a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional facility.

Section 2. Section **10-9-605** is amended to read:

10-9-605. Residences for persons with a disability.

(1) As used in this section:

(a) "Disability" is defined in Section 57-21-2.

(b) "Residential facility for persons with a disability" means a residence:

(i) in which more than one person with a disability resides; and

(ii) (A) is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(B) is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(2) Each municipality shall adopt an ordinance for residential facilities for persons with a disability. The ordinance:

(a) shall comply with Title 57, Chapter 21, Utah Fair Housing Act, and the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.;

(b) may require, if consistent with Subsection (2)(a), residential facilities for persons with a disability to be reasonably dispersed throughout the municipality; and

(c) shall provide that a residential facility for persons with a disability:

(i) is a permitted use in any zoning area where residential dwellings are allowed; and

(ii) may only be required to obtain permits that verify compliance with the building, safety, and health regulations that are applicable to similar structures.

(3) The responsibility to license programs or entities [which] that operate facilities for persons with a disability, as well as to require and monitor the provision of adequate services to persons residing in those facilities, shall rest with:

(a) for programs or entities licensed or certified by the Department of Human Services, the Department of Human Services as provided in Section 62A-2-114 and Title 62A, Chapter 5, Services to People with Disabilities; and

(b) for programs or entities licensed or certified by the Department of Health, the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

Section 3. Section **17-27-502** is amended to read:

17-27-502. County ordinances governing elderly residential facilities.

(1) Each county shall adopt ordinances that establish that a residential facility for elderly persons is a permitted use in any area where residential dwellings are allowed, except an area zoned to permit exclusively single-family dwellings.

(2) The ordinances shall establish a permit process that may require only that:

(a) the facility meet all applicable building, safety, zoning, and health ordinances applicable to similar dwellings;

(b) adequate off-street parking space be provided;

(c) the facility be capable of use as a residential facility for elderly persons without structural or landscaping alterations that would change the structure's residential character;

(d) ~~[no] residential [facility] facilities~~ for elderly persons be ~~[established within three-quarters mile of another residential facility for elderly persons or residential facility for persons with a disability, as defined by Section 17-27-605]~~ reasonably dispersed throughout the county;

(e) no person being treated for alcoholism or drug abuse be placed in a residential facility for elderly persons; and

(f) placement in a residential facility for elderly persons be on a strictly voluntary basis and not a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional facility.

Section 4. Section **17-27-605** is amended to read:

17-27-605. Residences for persons with a disability.

(1) As used in this section:

(a) "Disability" is defined in Section 57-21-2.

(b) "Residential facility for persons with a disability" means a residence:

(i) in which more than one person with a disability resides; and

(ii) (A) is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(B) is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(2) Each county shall adopt an ordinance for residential facilities for persons with a disability. The ordinance:

(a) shall comply with Title 57, Chapter 21, Utah Fair Housing Act, and the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.;

(b) may require, if consistent with Subsection (2)(a), residential facilities for persons with a disability to be reasonably dispersed throughout the county; and

(c) shall provide that a residential facility for persons with a disability:

(i) is a permitted use in any zoning area where residential dwellings are allowed; and

(ii) may only be required to obtain permits that verify compliance with the building, safety, and health regulations that are applicable to similar structures.

(3) The responsibility to license programs or entities [~~which~~] that operate facilities for persons with a disability, as well as to require and monitor the provision of adequate services to persons residing in those facilities, shall rest with:

(a) for programs or entities licensed or certified by the Department of Human Services, the Department of Human Services as provided in Section 62A-2-114 and Title 62A, Chapter 5, Services to People with Disabilities; and

(b) for programs or entities licensed or certified by the Department of Health, the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.