

**RESIDENTIAL FACILITIES FOR THE  
DISABLED AMENDMENTS**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: Greg J. Curtis**

**This act modifies the Utah Municipal Code and provisions relating to counties. The act modifies the permissible and required provisions of a county or municipal ordinance relating to residential facilities for persons with a disability. The act authorizes a limit on the number of occupants of a residential facility for persons with a disability, authorizes an ordinance to provide for residential facilities for persons with a disability to be excluded from a zoning area under certain circumstances, and authorizes the creation of a security plan for certain residential facilities for persons with a disability, if consistent with other applicable law. The act also makes technical changes.**

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

AMENDS:

**10-9-605**, as last amended by Chapters 102 and 203, Laws of Utah 2001

**17-27-605**, as last amended by Chapters 102 and 203, Laws of Utah 2001

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

Section 1. 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]~~

(3) Each ordinance~~[-(a)]~~ under Subsection (2) shall:

~~[(i)]~~ (a) 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.; and

~~[(ii)]~~ (b) to the extent required by federal law, provide that a residential facility for persons with a disability is a permitted use in any zoning area where similar residential dwellings that are not residential facilities for persons with a disability are allowed~~[-and (b)].~~

(4) Subject to Subsection (3), an ordinance under Subsection (2) may:

(a) require residential facilities for persons with a disability:

~~[(i) if consistent with the statutory provisions referred to in Subsection (2)(a)(i):]~~

~~[(A)]~~ (i) to be reasonably dispersed throughout the municipality; ~~[and]~~

(ii) to be limited by number of occupants;

~~[(B)]~~ (iii) for residential facilities for persons with a disability that are substance abuse facilities and are located within 500 feet of a school, to provide, in accordance with rules established by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities:

(A) a security plan satisfactory to local law enforcement authorities;

~~[(B)]~~ (B) 24-hour supervision for residents; and

~~[(C)]~~ (C) other 24-hour security measures; and

~~[(iv)]~~ (iv) to obtain permits that verify compliance with the same building, safety, and health regulations as are applicable in the same zoning area to similar uses that are not residential facilities for persons with a disability~~[-]; and~~

(b) provide that a residential facility for persons with a disability that would likely create a fundamental change in the character of a residential neighborhood may be excluded from a zoning area.

~~[(5)]~~ (5) The responsibility to license programs or entities 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 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 2. 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)~~]

(3) Each ordinance under Subsection (2) shall:

~~[(i)]~~ (a) 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.; and

~~[(ii)]~~ (b) to the extent required by federal law, provide that a residential facility for persons with a disability is a permitted use in any zoning area where similar residential dwellings that are not residential facilities for persons with a disability are allowed~~[-and (b)]~~.

(4) Subject to Subsection (3), an ordinance under Subsection (2) may:

(a) require residential facilities for persons with a disability:

~~[(i) if consistent with the statutory provisions referred to in Subsection (2)(a)(i):]~~

~~[(A)]~~ (i) to be reasonably dispersed throughout the county; ~~[and]~~

(ii) to be limited by number of occupants;

~~[(B)]~~ (iii) for residential facilities for persons with a disability that are substance abuse facilities and are located within 500 feet of a school, to provide, in accordance with rules established by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities:

(A) a security plan satisfactory to local law enforcement authorities;

~~[(H)]~~ (B) 24-hour supervision for residents; and

~~[(H)]~~ (C) other 24-hour security measures; and

~~[(H)]~~ (iv) to obtain permits that verify compliance with the same building, safety, and health regulations as are applicable in the same zoning area to similar uses that are not residential facilities for persons with a disability~~[-];~~ and

(b) provide that a residential facility for persons with a disability that would likely create a fundamental change in the character of a residential neighborhood may be excluded from a zoning area.

~~[(3)]~~ (5) The responsibility to license programs or entities 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 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.