

Box Elder County Land Use Development & Management Code

Article 4: Special Purpose & Overlay Zones

Chapter 4-7: Residential Facilities for Elderly Persons and Persons with a Disability

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4-7-010. Purpose.

The purpose of this Chapter is to comply with *Utah Code Ann. §§ 17-27a-515 to 518 and 17-26a-519*, as amended, and to avoid discrimination in housing against persons with disabilities pursuant to the *Utah Fair Housing Act* and the *Federal Fair Housing Act* as interpreted by courts whose decisions are binding in Utah.

4-7-020. Scope.

If any facility, residence, congregate living or other housing arrangement meets the definition of a residential facility for elderly persons or a residential facility for persons with a disability as set forth in this Code, the requirements of this Chapter shall govern the same notwithstanding any conflicting provision of this Code or the other ordinance of Box Elder County. The requirements of this Chapter shall not be construed to prohibit or limit other applicable provisions of this Code, the Box Elder County ordinances, or other laws.

4-7-030. Definitions.

Certain words and phrases in this Chapter are defined in Chapter 1-3 of this Code.

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4-7-040. Permitted Uses.

- A. Permitted Uses.** Notwithstanding any contrary provision of this Code, a residential facility for elderly persons and a residential facility for persons with a disability shall be permitted uses in any zone where a dwelling is allowed as a permitted or conditional use subject to the development standards in Section 4-7-050 of this Chapter.
- B. Termination.** A use permitted by this Chapter is nontransferable and shall terminate if any of the following occur:
1. A facility is devoted to a use other than a residential facility for elderly persons or a residential facility for persons with a disability.
 2. Any license or certification issued by the Utah Department of Health or the Department of Human Services for such facility terminates or is revoked.
 3. The facility fails to comply with requirements set forth in this Chapter.

4-7-050. Development Standards.

The development standards set forth in this section shall apply to any residential facility for elderly persons or any residential facility for persons with a disability.

- A. Building, Safety and Health Regulations.** The facility shall comply with building, safety, and health regulations applicable to similar structures.
1. Each facility shall be subject to the same development standards applicable to similar structures located in the same zoning district in which the facility is located.
 2. The minimum number of parking spaces required for a facility shall be the same as for similar structures located in the same zone in which the facility is located.
- B. Number of Occupants.** Pursuant to the definition of "family" in Section 1-3-040 of this Code, not more than four (4) unrelated persons shall occupy a residential facility for elderly persons or any residential facility for persons with a disability established in a dwelling unit unless a reasonable accommodation for a greater number of occupants is granted.
- C. Separation Required.** No residential facility for elderly persons or any residential facility for persons with a disability shall be established or maintained within one

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thousand (1,000) feet, measured in a straight line without regard to intervening structures or objects, from the property line of the facility to the closest property line of any of an assisted living facility, protective housing facility, rehabilitation/treatment facility, or transitional housing facility.

D. License and Certification. Prior to occupancy of any facility, the person or entity operating the facility shall:

1. Obtain a County business license, if required under applicable provisions of the Box Elder County ordinances;
2. Provide to the County a copy of any license or certification required by the Utah State Department of Health or the Utah State Department of Human Services; and
3. Certify in a sworn statement that no person will reside or remain in the facility whose tenancy would:
 - a. Constitute a direct threat to the health or safety of other individuals; or
 - b. Result in substantial physical damage to the property of others.

4-7-060. Reasonable Accommodation.

A. Reasonable Accommodation Required. None of the requirements of this Chapter shall be interpreted to limit a reasonable accommodation when an accommodation is necessary to afford persons with a disability an equal opportunity to use and enjoy a dwelling.

B. Application. Any person or entity wanting a reasonable accommodation shall make application therefore to the Zoning Administrator and shall state in writing the nature of the requested accommodation and the basis for the request.

C. Decision. The Planning Commission shall render a decision on each application for a reasonable accommodation within sixty (60) days. The decision shall be based on evidence of record demonstrating all of the following:

1. The requested accommodation will not undermine the legitimate purposes of existing zoning regulations notwithstanding the benefit that the accommodation would provide to a person with a disability.

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2. That but for the accommodation, one (1) or more persons with a disability will be denied an equal opportunity to enjoy housing of their choice.
 3. That equal results will be achieved as between the person with a disability requesting the accommodation and a non-disabled person.
- D. Appeal.** Any person adversely affected by a final decision of the Zoning Administrator regarding a request for a reasonable accommodation may appeal that decision to the Hearing Officer as provided in Section 2-1-060 of this Code.