

ORDINANCE NO. 06-08-05
RESIDENTIAL FACILITY FOR PERSONS WITH A
DISABILITY

AN ORDINANCE ENACTING FOR THE TOWN OF WALES REGARDING A
RESIDENTIAL FACILITY FOR PERSONS WITH A DISABILITY.

Now, therefore, be it ordained by Wales Town Council as follows:

Section 1. Purpose. The purpose of this ordinance is to establish rules and regulations.

Section 2. Enactment. This Wales Town Ordinance relating to a Residential Facility for Persons with a Disability is hereby enacted to read as follows.

RESIDENTIAL FACILITY FOR PERSONS WITH A DISABILITY
Purpose.

The purpose of this ordinance is to

- (a) comply with Section 10-9-605 of the Utah Code; and
- (b) Avoid discrimination in housing against persons with disabilities as provided by the Utah Fair Housing Act and the federal Fair Housing Act as interpreted by the courts having jurisdiction in Utah.

Definitions.

As used in this ordinance:

“Residential facility for persons with a disability means a residence in which more one person with a disability resides and which is licensed or certified by:

- (1) The Utah Department of Human Services under Title 62A, Chapter 2, Of the Utah Code, Licensure of Programs and Facilities, or
- (2) The Utah Department of Health under Title 26, Chapter 21, of the Utah Code, Health Care Facility Licensing and Inspection Act.

Permitted Use.

Notwithstanding any contrary provision of this Title, a residential facility for persons with a disability shall be a permitted use in any zone where a dwelling is allowed. A residential facility for persons with a disability that would create a fundamental change in the character of the neighborhood may be excluded from a zoning area.

Development standards.

A residential facility for persons with a disability is subject to the following requirements and all other provisions of this ordinance:

1. The facility shall comply with all building, safety and health regulations which apply to similar structures.
2. 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.
3. The minimum number of parking spaces required for a facility shall be the same as for similar structures located in the same zoning district in which the facility is located.
4. No facility shall be established or maintained within 660 feet, Measured in a straight line between the closes lot or parcel lines, of anyone of the following facilities:
 - (a) Another residential facility for persons with a disability licensed for the housing of the disabled persons:
 - (b) A residential facility for the elderly: or
 - (c) Any of the following facilities: protective housing facility; transitional housing facility; assisted living facility, or rehabilitation/treatment facility.
5. Each residential facility for persons with a disability that are substance abuse facilities and are located within 500 feet of a school, shall provide, in accordance with rules established by the State of Utah Department of Human Services under Title62A, Chapter 2, of the Utah Code, as amended, the following:
 - (a) A security plan satisfactory to local law enforcement authorities;
 - (b) 24-hour supervision for residents; and
 - (c) Other 24-hour security measures.
6. No facility shall be made available to any individual whose tenancy would constitute a direct threat to the health or safety of other individuals, or result in substantial physical damage to the property of others.

7. Prior to occupancy of any facility, the person or entity operating the facility shall:

- (a) Provide to the Town a copy of any license or certification required by the Utah State Department of Health or the Utah State Department of Human Services, and
- (b) Certify in a sworn statement that no person will reside or remain in the facility whose tenancy would constitute a direct threat to the health or safety of other individuals, or result in substantial physical damage to the property of others.

Reasonable accommodation.

1. None of the requirements of this Chapter shall be interpreted to limit any reasonable accommodation necessary to allow the establishment or occupancy of a residential facility for persons with a disability.
2. Any person or entity wanting a reasonable accommodation shall make application therefore to the Planning and Zoning or the Town Council and shall articulate in writing the nature of the requested accommodation and the basis for the request.
3. The Planning and Zoning or the Town Council shall render a written decision on each application for a reasonable accommodation within (30) days. The decision shall be based on evidence of record demonstrating:
 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;
 2. That, but for the accommodation, one or more persons with a disability likely will be denied an equal opportunity to enjoy housing of their choice; and
 3. That equal results will be achieved as between the person with a disability requesting the accommodation and a non-disabled person.
4. If a reasonable accommodation request is denied, the decision may be appealed to the Wales Town Council within thirty (30) days of the decision denying the request in the manner provided for appeals of administrative decisions set forth in this title.

Termination.

A use permitted by this Ordinance is nontransferable and shall terminate if:

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

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; or
3. The facility fails to comply with the requirements set forth in this Ordinance.

Section 3. Effective Date

This Ordinance shall take effect upon first publication on 06/08/05.

PASSED, APPROVED AND ADOPTED by the Wales Town Council on this 8th day of June, 2005.

WALES TOWN COUNCIL

Byron L. Davis
Mayor Byron L. Davis

Ken B. Anderson
Council Member

Gary E. Anderson
Council Member

George Keil
Council Member

Dan B. Phil
Council Member

ATTEST:

Nellie Case
Town Clerk

CERTIFICATE OF PUBLICATION

I hereby certify that this Ordinance or a summary hereof was published according to law on 8th day of June 2005.

Nellie Case
Town Clerk