



**BLUFFDALE CITY COUNCIL
SPECIAL MEETING AGENDA
Tuesday, May 19, 2020**

This meeting will ONLY be conducted electronically

Notice is hereby given that the Bluffdale City Council will hold an electronic public meeting Tuesday, May 19, 2020, at **6:00 p.m.** Interested parties may visit www.bluffdale.com regarding streaming of this meeting:

BLUFFDALE CITY COUNCIL SPECIAL MEETING 6:00 P.M.

1. Roll Call
2. Consideration and vote on Resolution No. 2020-37, regarding a notice of pending ordinance about a Text Amendment to Title 11, Chapter 27 (Residential Facilities for Elderly or Disabled Persons), staff presenter, Todd Sheeran.
3. Closed meeting pursuant to Utah Code § 52-4-205(1) to discuss the character, professional competence, or health of an individual, collective bargaining, pending or imminent litigation, strategies to discuss real property acquisition, including any form of a water right or water shares, security issues, or any alleged criminal misconduct (if needed).
4. Adjournment

Dated: May 18, 2020

I HEREBY CERTIFY THAT THE FOREGOING NOTICE AND AGENDA WAS FAXED TO THE SOUTH VALLEY JOURNAL, THE SALT LAKE TRIBUNE, AND THE DESERET MORNING NEWS; POSTED AT THE BLUFFDALE CITY HALL, EMAILED OR DELIVERED TO EACH MEMBER OF THE BLUFFDALE CITY COUNCIL; ON THE CITY'S WEBSITE AT WWW.BLUFFDALE.COM AND ON THE PUBLIC MEETING NOTICE WEBSITE, WWW.PMN.UTAH.GOV

**Wendy L. Deppe, CMC
City Recorder**

In compliance with the American with Disabilities Act, individuals needing assistance or other services or accommodation for this meeting should contact Bluffdale City Hall at least 24 hours in advance of this meeting at 801-254-2200. TTY 7-1-1.

RESOLUTION NO. 2020-37

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLUFFDALE, UTAH, PROVIDING NOTICE OF A PENDING ORDINANCE TO AMEND THE REQUIREMENTS FOR RESIDENTIAL FACILITIES FOR HANDICAPPED PERSONS.

WHEREAS, pursuant to Utah Code § 10-9a-509(1)(a)(ii), the Bluffdale City Council (the “City Council”) of the City of Bluffdale (the “City”) desires to provide notice of a pending land use ordinance regarding proposed changes to Section 11-27-1, *et seq.* of the Bluffdale City Code (“City Code”) that regulates residential facilities for handicapped persons; and

WHEREAS, the City has prepared a draft ordinance, which is attached hereto as **Exhibit A**; and

WHEREAS, the City Council finds that studying the issues presented in the draft ordinance and potentially adopting the draft ordinance is in the best interest of the public health, safety, and welfare.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BLUFFDALE, UTAH:

SECTION 1. Notice of Draft Ordinance. Notice is hereby given that the City Council intends to consider and potentially adopt an ordinance that will change the requirements for residential facilities for handicapped persons. The draft ordinance is attached hereto as **Exhibit A**.

SECTION 2. Effective Date. This Resolution shall become effective immediately upon passage.

[SIGNATURE PAGE FOLLOWS]

APPROVED BY THE CITY COUNCIL OF THE CITY OF BLUFFDALE, UTAH, ON THIS _____ DAY OF _____, 2020 BY THE FOLLOWING VOTE:

	YES	NO	ABSTAIN	ABSENT
Councilmember Aston	_____	_____	_____	_____
Councilmember Crockett	_____	_____	_____	_____
Councilmember Gaston	_____	_____	_____	_____
Councilmember Hales	_____	_____	_____	_____
Councilmember Kallas	_____	_____	_____	_____

Mayor: _____
Derk P. Timothy

Attest: _____
City Recorder

Approved as to form:

Todd Sheeran
City Attorney

EXHIBIT A

(Draft Ordinance)

ORDINANCE NO. 2020-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLUFFDALE, UTAH, REPEALING SECTION 11, CHAPTER 27 (RESIDENTIAL FACILITIES FOR ELDERLY OR DISABLED PERSONS) OF THE BLUFFDALE CITY CODE AND ENACTING TITLE 14 (RESIDENTIAL FACILITIES FOR HANDICAP PERSONS).

WHEREAS, Utah Code § 10-9a-102 grants the Bluffdale City Council (the “City Council”) authority to enact or amend ordinances that it considers necessary or appropriate for the use and development of land in the City of Bluffdale (the “City”); and

WHEREAS, the City Council desires to repeal Bluffdale City Code (“City Code”) Title 11, Chapter 27 (Residential Facilities for Elderly or Disabled Persons) and enact Title 14 (Residential Facilities for Handicap Persons); and

WHEREAS, the Bluffdale Planning Commission held a public hearing, reviewed and made recommendation concerning the subject text amendments; and

WHEREAS, the City Council held a public hearing and reviewing the subject text amendments and finds that the subject text amendments will enhance the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLUFFDALE, UTAH:

SECTION 1. Repeal and Enactment. Title 11, Chapter 27 is hereby repealed and Title 14 is hereby enacted, as shown in **Exhibit A**.

SECTION 2. Severability. If any section, part or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance and all sections, parts, provisions and words of this Ordinance shall be severable.

SECTION 3. Effective Date. This Ordinance shall become effective immediately upon publication or posting as required by law.

[SIGNATURE PAGE FOLLOWS]

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF BLUFFDALE, UTAH, ON THIS _____ DAY OF _____, 2020 BY THE FOLLOWING VOTE:

	YES	NO	ABSTAIN	ABSENT
Councilmember Aston	_____	_____	_____	_____
Councilmember Crockett	_____	_____	_____	_____
Councilmember Gaston	_____	_____	_____	_____
Councilmember Hales	_____	_____	_____	_____
Councilmember Kallas	_____	_____	_____	_____

Mayor: _____
Derk P. Timothy

Attest: _____
City Recorder

Approved as to form:

City Attorney

EXHIBIT A

(Deletions in ~~striketrough~~, new language in **bolded underline**)

TITLE 11, CHAPTER 27: Repealed.

TITLE 14: RESIDENTIAL FACILITIES FOR HANDICAP PERSONS

Chapter 14.01: General Provisions

14.01.010: Intent and Purpose

- A. The intent of this Title is to provide flexibility in the application of City Code requirements for handicapped persons. This Title will facilitate compliance with Federal and State fair housing laws, and promote housing opportunities for residents of the City.**
- B. The purpose of this Title is to establish a process and procedure for handicapped persons seeking access to housing in the City and to request a reasonable accommodation pursuant to Federal and State law.**

14.01.020: Scope

If any facility that meets the definition of a residential facility for handicapped persons, the requirements of this Title shall govern and shall supersede any other conflicting City Code requirements. Except as provided herein, if other provisions of City Code do not conflict, the regulations for similar structures and uses shall apply.

14.01.030: Definitions

For the purpose of this Title, the terms used herein shall be consistent with the defined Federal and State terms. For example, the term “handicap” is defined by 42 U.S. Code § 3602(h) and the term “residential treatment program” is defined by Utah Code § 62A-2-101(37).

“Applicant” means any authorized person applying under this Title to house five or more handicapped persons.

“Residential facility for handicap persons” or “facility” means any facility that qualifies for the protections found in Federal and State law, including the Fair Housing Act Amendments of 1988 (the “FHAA”).

Chapter 14.02: Provisions Applicable to Residential Facilities for Handicap Persons.

14.02.010: Regulations

Each facility shall comply with the following:

- A. Conform To Applicable State And Local Requirements. Conform to all state and local building, safety, health, and zoning requirements applicable to residential structures in the zone in which it is located.**

- B. Maintain Residential Character Of Facility. A facility located in an existing residential dwelling shall be capable of use as a facility without structural or landscaping alterations that would change the structure's residential character. Any new structure constructed for use as a facility shall be of a size, scale, and design that is in harmony with other residential uses in the vicinity and will not likely create a fundamental change in the character of the residential neighborhood in which it is proposed to be located.
- C. Conform To Relevant State Standards And Have Appropriate Licensure. Conform to all applicable standards and requirements of the Utah state department of human services or the Utah state department of health. The applicant has obtained all licenses required by the state to operate such a facility.
- D. Provide Adequate Parking. Provide at minimum three (3) off street parking stalls or the same number of off-street stalls, which ever is greater, as required for similar structures located in the same zoning district to serve the needs of residents, visitors, and staff members. Additional parking may be required based on the number of residents occupying the residential facility, the number of residents who are reasonably expected to maintain a vehicle at the facility, the reasonably anticipated number of visitors, and the number of staff members who will be serving the residents.
- E. Occupying Restrictions. The residential facility for persons with a disability is occupied only by individuals with a disability and paid, professional staff members. Occupancy by any staff member shall only be allowed if such occupancy is primarily for the purpose of serving the persons with a disability and not primarily a benefit of employment to the staff member. The facility shall not house more than eight (8) persons with a handicap.
- F. Voluntary Residency. Residency in the facility shall be on a strictly voluntary basis and not a part of, or in lieu of, confinement, rehabilitation, or treatment in neither a correctional facility nor a condition of probation or parole. A facility shall not include any persons referred by the Utah state department of corrections or any adult or juvenile court.
- G. No Tenants Who Constitute Direct Threat To Health Or Safety. The facility shall not be made available to or occupied by any person whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.
- H. No Outpatient Treatment. The facility shall not provide professional counseling, treatment, therapy, or other treatment for any nonresidents.

Chapter 14.03: Business License

14.03.010: Business License Required

An applicant shall apply for a business license before a facility can operate and house handicapped persons.

14.03.020: Application Requirements and Procedure

A business license form, which can be obtained by the City, shall be signed by the applicant and shall include, among other things, the following information:

- A. The applicant's name, address, and phone number.
- B. The address of the property for which the facility seeks to locate.

- C. The name address and phone number of the property owner, if different from the applicant.
- D. Current zoning and use of the property.
- E. A description of how the property will be used by the facility and its owners.
- F. A letter and certification that the facility will house persons who meet the definition of handicap.
- G. The maximum number of handicapped persons the facility intends to house.
- H. The application fee paid.
- I. Any other reasonably relevant information as determined by the Business Director, or its designee.

14.03.030: Review Authority and Decision

- A. Incomplete Applications. If an applicant submits an incomplete application, the Business Licensing Director, or its designee, shall issue a letter stating what information needs to be submitted before staff will review the application.
- B. Complete Applications. Once an applicant submits a complete application, the Business Licensing Director, or its designee, shall provide written approval (or denial) of the business license within a reasonable amount of time but no longer than 30 days. Applications shall be approved if it meets the requirements of this Title.

14.03.040: License Transferability and Revocation

- A. Any license issued pursuant to this Title shall be nontransferable and shall terminate if the facility is devoted to a use other than the permitted facility, the facility fails to comply with all applicable building, safety, health, and zoning requirements of this code, or the licensing state agency suspends, revokes, or materially changes the classification of the permitted activities at the facility.
- B. The general licensing procedures of this title shall apply to the granting, renewal, suspension, or revocation of any license application or license as a residential facility for handicap persons.

Chapter 14.04: Reasonable Accommodations

14.04.010: Requesting A Reasonable Accommodation

- A. Any person seeking to increase the occupancy restriction in Section 14.02.010.E, may request a reasonable accommodation pursuant to Federal and State law and this Chapter.
- B. A requested accommodation may be concurrently made with a business license application (Chapter 14.03).

14.04.020: Application Requirements and Procedure

- A. An application request for a reasonable accommodation must include the following:
 - 1. A complete business license application (see Section 14.03.020).
 - 2. Pay the applicable fees.
 - 3. A statement of why the applicant is entitled to a reasonable accommodation (less than five pages in length, single spaced, 12 times new roman font, and 1” margins).

- B. Once the City Recorder receives a complete application, a Hearing Officer shall fix a reasonable time and place for hearing the request.
- C. At least five days before the hearing, the City may, at its discretion, submit a responsive brief to the Hearing Officer, the applicant, and the City Recorder

14.04.030: Review Authority and Decision

- A. A Hearing Officer shall:
 - 1. act in a quasi-judicial manner and make a decision on whether the applicant shall receive a reasonable accommodation;
 - 2. consider the reasonable accommodation application and the City's responsive briefing;
 - 3. issue a written decision, including findings and conclusions, that affirms, in whole or in part, the request for accommodation.
- B. A decision of a Hearing Officer takes effect and is final on the date when the Hearing Officer issues a written decision and shall be issued within 14 days of the hearing.

Chapter 14.05: Appeals

14.05.010: Business License Appeals

- A. An applicant or license holder who is denied a license to operate a facility shall have the right to appeal such action or make such request to the City Manager, or its designee, at an informal hearing.
- B. The notice of appeal shall be in writing and shall be delivered to the city recorder either in person or by certified U.S. mail. A notice of appeal must be filed within ten (10) business days of the person's receipt of notice of a denial of a license. The notice of appeal shall identify the appellant, set forth the nature of the action for which reasonable accommodation is being appealed or sought, and state the grounds for appeal.
- C. The hearing shall be held no later than twenty (20) business days following the City's receipt of the applicant's notice of appeal.
- D. Within ten (10) business days of the hearing, the City Manager, or the designee, shall make written findings and issue a decision.
- E. Any applicant or license holder who is aggrieved by the City Manager's decision may file for relief in any court of competent jurisdiction within thirty (30) days of the City Manager's decision.

14.05.020: Reasonable Accommodation Appeals

Any applicant or license holder who is aggrieved by the Hearing Officer's decision may file for relief in any court of competent jurisdiction within thirty (30) days of the Hearing Officer's decision.