

Midway City Council
11 April 2018
Regular Meeting

Ordinance 2018-12 /
Treatment Facilities



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: April 11, 2018
NAME OF APPLICANT: Midway City
AGENDA ITEM: Code Text Amendment of Title 16

ITEM: 7

Midway City is proposing a Code Text Amendment of Midway City's Land Use Code of Title 16 regarding Residential Treatment Facilities, Residential Facilities for Elderly Persons, Rest Homes, Nursing, and Convalescent Facilities. The City would like to review the current code and potentially amend the regulations for these facilities.

BACKGROUND:

Staff is proposing an amendment to the Land Use Code regarding Residential Treatment Facilities, Residential Facilities for Elderly Persons, Rest Homes, Nursing, and Convalescent Facilities. The reason for the amendment is not to limit the use in any of the zones where residences are permitted but to limit the number of residents in a facility based on the zoning. Currently there is no limit to the number of residents for any of the facilities listed above. Without a limit in the code, it is possible someone could propose, for example, a 200-resident facility in a single-family dwelling residential zone. A facility that would house that many residents would be much larger than any of the dwelling structures in the zone. Staff is recommending that a limit of residents per facility is adopted to avoid a future conflict where a facility is proposed in a residential zone that the community feels is too large for the surrounding area. A large facility would have the feel of a commercial use in a residential zone.

Staff is proposing that the limit of residents for Residential Facilities for Elderly Persons, Rest Homes, Nursing, and Convalescent Facilities is eight in all residential zones (R-1-7, R-1-9, R-1-11, R-1-15, R-1-22, RA-1-43, RZ, C-2, and C-3).

There are two sections of code that are proposed for adoption to the City's land use ordinance. The first is a definition of Single Housekeeping Unit that would be added to Chapter 16.2: Definitions. And the second is the code text for Residential Facilities for Elderly Persons or for Persons with a Disability that would be added to Section 16.18.

Singe Housekeeping Unit would be defined as the following:

71. Single Housekeeping Unit. A Single Housekeeping Unit shall mean one person or two or more individuals who:

- a. are living together sharing household responsibilities and activities which may include sharing expenses, chores, eating evening meals together and participating in recreational activities and having close social economic and psychological commitments to each other;*
- b. are not legally dependent on others not living with them;*
- c. legally share in the ownership or possession of the premises. E.g., tenants in common or joint tenants on a deed or cosigners of a single lease.*

A Single Housekeeping Unit does not include a common living arrangement whose basis is temporary or financial in nature, except that:

- a. A Single Housekeeping Unit may include not more than three persons, where such persons, for compensation, are provided room or meals for more than 30 days at a time as distinguished from a motel or boarding house; or*
- b. In the case of a Residential Facility for Elderly Persons or Persons with a Disability operated pursuant to Section 16.18, as distinguished from a motel, or boarding house, a Single Housekeeping Unit may include not more than eight persons, together with a maximum of two additional qualified persons acting as resident staff, houseparents, or guardians.*

Section 16.18 Residential Facilities for Elderly Persons or for Persons with a Disability

Section 16.18.010 Purpose

Section 16.18.020 Definitions

Section 16.18.030 Permitted Uses

Section 16.18.040 Review Process

Section 16.18.050 Development Standards

Section 16.18.060 License and Certification

Section 16.18.070 Accommodation Request

Section 16.18.080 Review and Hearing Process
Section 16.18.090 Exemptions

Section 16.18.010 Purpose

The purpose of this section is to:

A. *Comply with Utah Code Annotated.*

B. *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. This section is not a separate zone for such facilities, but applies to all residential zones within Midway City. 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 below, the requirements of this Chapter shall govern the same, notwithstanding any conflicting provision of this Title or the Midway City Municipal Code. Except as provided herein, the requirements of this Chapter shall not be construed to prohibit or limit other applicable provisions of this Title, the Midway City Municipal Code, or other local, County, State or Federal laws.*

Section 16.18.020 Definitions

A. *Residential Treatment. An operation licensed by the State of Utah as “Residential Treatment” as a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, rehabilitation or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies. In residential treatment, individuals are assisted in acquiring the social and behavior skills necessary for living independently in the community*

B. *Residential Facility for Elderly Persons. A dwelling unit owned by a resident thereof or an immediate family member of a resident, or for which the title has been placed in a trust for a resident; and is voluntarily occupied on a twenty-four (24) hour per day basis by not more than eight (8) elderly persons in a family-type arrangement. A “residential facility for elderly persons” does not include any facility:*

1. *Operated as a business; provided that such facility shall not be considered to be operated as a business solely because a fee is charged for food or for actual and necessary costs of operation and maintenance of the facility;*
2. *Where persons are placed:*
 - a. *For alcoholism or drug abuse treatment; or*
 - b. *As part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional facility;*
 - c. *Which is a health care facility as defined by the Utah Code, as amended; or*
 - d. *Which is a residential facility for persons with a disability.*

C. *Residential Facility for Persons with a Disability. A dwelling unit or other place in*

which not more than eight (8) persons with a disability reside together with up to two additional qualified persons acting as resident staff, houseparents or guardians, and if required by State law, is licensed or certified by:

- 1. the Utah Department of Human Services under the Utah Code, Licensure of Programs and Facilities; or*
- 2. the Department of Health under the Utah Code, Health Care Facility Licensing and Inspection Act.*

Section 16.18.030 Permitted Uses

- A. **Permitted Uses.** Notwithstanding any contrary provision of this Title, 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 of Section 16.18.050.*
- B. **Termination.** A use permitted by this Section is nontransferable and shall terminate if:*
- 1. The 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.*

Section 16.18.040 Review Process

In addition to other information required by the Midway City Municipal Code, the following information must be submitted with the business license application for a residential facility. Additional information may be requested to aid in that review.

- A. A statement of the specific type of facility (as defined by State regulations) the applicant seeks to operate and by which State agency it is regulated.*
- B. The minimum and maximum number of residents who will live at the residential facility, and the minimum and maximum number of both resident and non-resident staff.*
- C. The complete name of the business, the type of business entity and whether the business is a for-profit or non-profit organization.*
- D. The typical or average length of stay of the residents.*

Section 16.18.050 Development Standards

The development standards set forth in this Section shall apply to any residential facility for elderly persons or 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 residential structures within the residential zone in which the facility is located.*
 - 1. *Each facility shall be subject to the same development standards applicable to similar residential 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. ***No Dangerous Persons Permitted.*** *No facility shall be made available to an individual whose tenancy would:*
 - 1. *Constitute a direct threat to the health or safety of other individuals.*
 - 2. *Result in substantial physical damage to the property of others.*

- C. ***Prohibited.*** *A Residential Facility for persons with a disability or a Residential Facility for elderly person that would likely create a fundamental change in the character of a residential neighborhood is not allowed.*

Section 16.18.060 License and Certification

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

- A. ***State License.*** *Provide to the City a copy of any license or certification required by the Utah State Department of Health or the Utah State Department of Human Services, including any policies or procedures that are required under state law.*

- B. ***Certification Requirements.*** *Certify in a sworn statement that no person will reside or remain in the facility whose tenancy would:*
 - 1. *Constitute a direct threat to the health or safety of other individuals.*
 - 2. *Result in substantial physical damage to the property of others.*

- C. ***City License.*** *Obtain a Midway City Business License if any sort of license or certification is required by the Utah State Department of Health or the Utah State Department of Human Services.*

- D. ***Compliance/Renewal.*** *Any such facility must comply with all Federal, State,*

County and City regulations. At the time of renewal, the applicant must provide copies of all necessary certifications/recertifications or licenses as required by State regulations.

16.18.070 Accommodation Request

- A. **Reasonable Accommodation Required.** *In accordance with the Americans with Disabilities Act, the Fair Housing Act, Fair Housing Amendments Act and applicable law, none of the requirements of this Chapter shall be interpreted to limit any accommodation which is reasonable and necessary to allow the establishment or occupancy of a residential facility for persons with a disability.*
- B. **Request for Accommodation.** *Any person or entity may request an accommodation after being informed that an existing or proposed: (i) residential facility for persons with a disability; or (ii) business license application or building permit application for a residential facility for persons with a disability, does not comply with the requirements of the Midway City Municipal Code (collectively a "Denial"). The application shall be submitted to the City Planner, shall articulate in writing the nature of the requested accommodation and the basis for the request, and shall include all other information relevant to the request. The requested accommodation must relate to the use of the property so that it may be enjoyed as other similar situated properties in the same zone. Once a request for accommodation is received by the City Planner, it shall be submitted to the Review and Hearing Process set forth in 16.18.080 below within seven business days of receipt. In the event that the City Planner receives no request for accommodation within the thirty (30) day period after a Denial, the City Planner shall submit the information received in the initial application to the Review and Hearing Process set forth in 16.18.080 below, unless the applicant specifically waives their right to the process in writing.*

16.18.080 Review and Hearing Process

A hearing officer with demonstrated experience as a hearing officer and knowledge of the Americans with Disabilities Act or Fair Housing Act, shall be appointed by the Mayor with the advice and consent of the City Council, to review the request for accommodation. Additional information may be requested by the hearing officer to aid in that review.

- A. **Hearing Officer Scheduling of Hearing.** *The hearing officer shall review the request for accommodation within ten business (10) days after receipt of the written request by the City Planner. The hearing officer shall determine whether additional information is needed from the City Planner, the person or entity making the request, or both.*
1. *If additional information is needed, the hearing officer shall notify the City Planner and the person or entity making the request within seven (7) days after*

receipt of the written request by the City Planner. The City Planner and requesting person or entity shall have seven (7) days to submit the requested information, or such reasonable additional time as approved by the hearing officer. The hearing officer shall determine within three (3) days after receipt of additional information whether the submission is responsive to the hearing officer's request.

2. *If no additional information is needed or if the hearing officer receives the requested additional information, the hearing officer shall schedule a hearing. The hearing officer shall provide written notice of the hearing date and time to the person or entity requesting the accommodation and the City Planner. Unless otherwise agreed to by the person or entity requesting the accommodation and the City Planner, the hearing officer shall hold the hearing within fourteen (14) days after the hearing officer determines that all requested information has been received and no additional information is needed. Unless agreed upon by the person or entity requesting the accommodation and the City Planner, the hearing shall be held no more than forty-five (45) days after receipt of the request by the City Planner. If the hearing officer has not received all requested information at that time, the hearing officer may continue the hearing or deny the request based on insufficient information.*

B. Findings. *The hearing officer shall make a determination and prepare written findings within seven days after the hearing.*

1. *At a minimum, the written findings shall address the following issues: (i) whether the requested accommodation(s) is reasonable; (ii) whether the requested accommodation is necessary for financial and therapeutic viability; (iii) whether the facility with the requested accommodation(s) is or is not likely to create a fundamental change in the character of the residential neighborhood; and (iv) other findings in support of the hearing officer's determination.*
2. *The hearing officer shall mail a copy of the written determination and findings to the City Planner and the person or entity requesting the accommodation along with a letter notifying the City Planner and the person or entity requesting the accommodation that the decision is final and may be appealed to a court of competent jurisdiction.*
3. *The hearing officer shall forward a copy of the decision to the Mayor, the City Recorder and the City Council.*

C. Appeal. *The determination of the hearing officer shall be final and may be appealed to a court of competent jurisdiction.*

16.18.090 Exemptions

A Residential Facility for Persons with a Disability shall not include facilities which house persons who are violent, who are not voluntarily residing therein, or who are residing

therein as a part of or in lieu of confinement, rehabilitation, or treatment in a correctional facility.

POSSIBLE FINDINGS:

- Residential Treatment Facilities and Residential Facilities for Elderly Persons will still be allowed uses in all residential zones
- The proposal will assure that the number of residents in these facilities will be in scale with other residential uses in the zones in which they are located

ALTERNATIVE ACTIONS:

1. Approval. This action can be taken if the City Council feels that the proposed language is an acceptable amendment to the City’s Municipal Code.
 - a. Accept staff report
 - b. List accepted findings
2. Continuance. This action can be taken if the City Council would like to continue exploring potential options for the amendment.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for continuance
 - i. Unresolved issues that must be addressed
 - d. Date when the item will be heard again
3. Denial. This action can be taken if the City Council feels that the proposed amendment is not an acceptable revision to the City’s Municipal Code.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial



ORDINANCE 2018-_____

AN ORDINANCE AMENDING PORTIONS OF SECTION 16.2 OF THE MIDWAY CITY CODE LAND USE CODE REGARDING THE DEFINITION OF A SINGLE HOUSEKEEPING UNIT AND SECTION 16.18 REGARDING RESIDENTIAL FACILITIES FOR ELDERLY PERSONS AND RESIDENTIAL TREATMENT FACILITIES FOR PERSONS WITH A DISABILITY, AND RELATED MATTERS.

WHEREAS, the Midway City desires to amend the Midway City Code regarding the definition of a single housekeeping unit and the section regarding residential treatment facilities for elderly persons or persons with a disability; and

WHEREAS, the proposed amendments would clarify the Code with respect to residential treatment facilities for the elderly and persons with a disability; and

WHEREAS, the City has undertaken various studies and conducted research to determine what reasonable accommodations are most appropriate for the City of Midway; and

WHEREAS, the City has summarized the results of these studies and this research in the attached Exhibit (attached hereto and incorporated herein by this reference), which constitutes the findings in support of this Ordinance; and

WHEREAS, the City Council has determined that the amendment to the City Code as contained herein will be in the best interests of the City and its citizens.

NOW THEREFORE, for the reasons stated above, the City Council of the City of Midway, Wasatch County, Utah, hereby adopts, passes and publishes the following:

BE IT ORDAINED, by the City Council of Midway City, Wasatch County, State of Utah:

Section 16.2 (71) is hereby amended, and shall hereafter read as follows:

71. Single Housekeeping Unit. A Single Housekeeping Unit shall mean one person or two or more individuals who:

- a. are living together sharing household responsibilities and activities which may include sharing expenses, chores, eating evening meals together and participating in recreational activities and having close social economic and psychological commitments to each other;*
- b. are not legally dependent on others not living with them;*
- c. legally share in the ownership or possession of the premises. E.g., tenants in common or joint tenants on a deed or cosigners of a single lease.*

A Single Housekeeping Unit does not include a common living arrangement whose basis is temporary or financial in nature, except that:

- a. A Single Housekeeping Unit may include not more than three persons, where such persons, for compensation, are provided room or meals for more than 30 days at a time as distinguished from a motel or boarding house; or*
- b. In the case of a Residential Facility for Elderly Persons or Persons with a Disability operated pursuant to Section 16.18, as distinguished from a motel, or boarding house, a Single Housekeeping Unit may include not more than eight persons, together with a maximum of two additional qualified persons acting as resident staff, houseparents, or guardians.*

Section 16.18 of the Midway City Code is hereby amended, and shall hereafter read as follows:

Section 16.18 Residential Facilities for Elderly Persons or for Persons with a Disability

Section 16.18.010 Purpose

Section 16.18.020 Definitions

Section 16.18.030 Permitted Uses

Section 16.18.040 Review Process

Section 16.18.050 Development Standards

Section 16.18.060 License and Certification

Section 16.18.070 Accommodation Request

Section 16.18.080 Review and Hearing Process

Section 16.18.090 Exemptions

Section 16.18.010 Purpose

The purpose of this section is to:

- A. Comply with Utah Code Annotated.*

B. 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. This section does not create a separate zone for such facilities, but applies to all residential zones within Midway City. 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 below, the requirements of this Chapter shall govern the same, notwithstanding any conflicting provision of this Title or the Midway City Municipal Code. Except as provided herein, the requirements of this Chapter shall not be construed to prohibit or limit other applicable provisions of this Title, the Midway City Municipal Code, or other local, County, State or Federal laws.

Section 16.18.020 Definitions

A. Residential Treatment. An operation licensed by the State of Utah as “Residential Treatment” as a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, rehabilitation or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies. In residential treatment, individuals are assisted in acquiring the social and behavior skills necessary for living independently in the community

B. Residential Facility for Elderly Persons. A dwelling unit owned by a resident thereof or an immediate family member of a resident, or for which the title has been placed in a trust for a resident; and is voluntarily occupied on a twenty-four (24) hour per day basis by not more than eight (8) elderly persons in a family-type arrangement. A “residential facility for elderly persons” does not include any facility:

- 1. Operated as a business; provided that such facility shall not be considered to be operated as a business solely because a fee is charged for food or for actual and necessary costs of operation and maintenance of the facility;*
- 2. Where persons are placed:*
 - a. For alcoholism or drug abuse treatment; or*
 - b. As part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional facility;*
 - c. Which is a health care facility as defined by the Utah Code, as amended; or*
 - d. Which is a residential facility for persons with a disability.*

C. Residential Facility for Persons with a Disability. A dwelling unit or other place in which not more than eight (8) persons with a disability reside together with up to two additional qualified persons acting as resident staff, houseparents or guardians, and if required by State law, is licensed or certified by:

- 1. the Utah Department of Human Services under the Utah Code, Licensure of Programs and Facilities; or*
- 2. the Department of Health under the Utah Code, Health Care Facility Licensing and*

Inspection Act.

Section 16.18.030 Permitted Uses

- A. **Permitted Uses.** *Notwithstanding any contrary provision of this Title, 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 of Section 16.18.050.*
- B. **Termination.** *A use permitted by this Section is nontransferable and shall terminate if:*
1. *The 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, or*
 3. *The facility fails to comply with requirements set forth in this Chapter.*

Section 16.18.040 Review Process

In addition to other information required by the Midway City Municipal Code, the following information must be submitted with the business license application for a residential facility. Additional information may be requested to aid in that review.

- A. *A statement of the specific type of facility (as defined by State regulations) the applicant seeks to operate and by which State agency it is regulated.*
- B. *The minimum and maximum number of residents who will live at the Residential Facility, and the minimum and maximum number of both resident and non-resident staff.*
- C. *The complete name of the business, the type of business entity and whether the business is a for-profit or non-profit organization.*
- D. *The typical or average length of stay of the residents.*

Section 16.18.050 Development Standards

The development standards set forth in this Section shall apply to any residential facility for elderly persons or 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 residential structures within the residential zone in which the facility is located.*
1. *Each facility shall be subject to the same development standards applicable to similar residential 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. **No Dangerous Persons Permitted.** *No facility shall be made available to an individual whose tenancy would:*
1. *Constitute a direct threat to the health or safety of other individuals.*
 2. *Result in substantial physical damage to the property of others.*
- C. **Prohibited.** *A Residential Facility for persons with a disability or a Residential Facility for elderly person that would likely create a fundamental change in the character of a residential neighborhood is not allowed.*

Section 16.18.060 License and Certification

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

- A. **State License.** *Provide to the City a copy of any license or certification required by the Utah State Department of Health or the Utah State Department of Human Services, including any policies or procedures that are required under state law.*
- B. **Certification Requirements.** *Certify in a sworn statement that no person will reside or remain in the facility whose tenancy would:*
1. *Constitute a direct threat to the health or safety of other individuals.*
 2. *Result in substantial physical damage to the property of others.*
- C. **City License.** *Obtain a Midway City Business License if any sort of license or certification is required by the Utah State Department of Health or the Utah State Department of Human Services.*
- D. **Compliance/Renewal.** *Any such facility must comply with all Federal, State, County and City regulations. At the time of renewal, the applicant must provide copies of all necessary certifications/re-certifications or licenses as required by State regulations.*

16.18.070 Accommodation Request

- A. **Reasonable Accommodation Required.** *In accordance with the Americans with Disabilities Act, the Fair Housing Act, Fair Housing Amendments Act and applicable law, none of the requirements of this Chapter shall be interpreted to limit any accommodation which is reasonable and necessary to allow the establishment or occupancy of a residential facility for persons with a disability.*

B. Request for Accommodation. Any person or entity may request an accommodation after being informed that an existing or proposed: (i) residential facility for persons with a disability; or (ii) business license application or building permit application for a residential facility for persons with a disability, does not comply with the requirements of the Midway City Municipal Code (collectively a "Denial"). The application shall be submitted to the City Planner, shall articulate in writing the nature of the requested accommodation and the basis for the request, and shall include all other information relevant to the request. The requested accommodation must relate to the use of the property so that it may be enjoyed as other similar situated properties in the same zone. Once a request for accommodation is received by the City Planner, it shall be submitted to the Review and Hearing Process set forth in 16.18.080 below within seven business days of receipt. In the event that the City Planner receives no request for accommodation within the thirty (30) day period after a Denial, the City Planner shall submit the information received in the initial application to the Review and Hearing Process set forth in 16.18.080 below, unless the applicant specifically waives their right to the process in writing.

16.18.080 Review and Hearing Process

A hearing officer with demonstrated experience as a hearing officer and knowledge of the Americans with Disabilities Act or Fair Housing Act, shall be appointed by the Mayor with the advice and consent of the City Council, to review the request for accommodation. Additional information may be requested by the hearing officer to aid in that review.

- A. Hearing Officer Scheduling of Hearing.** The hearing officer shall review the request for accommodation within ten business (10) days after receipt of the written request by the City Planner. The hearing officer shall determine whether additional information is needed from the City Planner, the person or entity making the request, or both.
1. If additional information is needed, the hearing officer shall notify the City Planner and the person or entity making the request within seven (7) days after receipt of the written request from the City Planner. The City Planner and requesting person or entity shall have seven (7) days to submit the requested information, or such reasonable additional time as approved by the hearing officer. The hearing officer shall determine within three (3) days after receipt of additional information whether the submission is responsive to the hearing officer's request.
 2. If no additional information is needed or if the hearing officer receives the requested additional information, the hearing officer shall schedule a hearing. The hearing officer shall provide written notice of the hearing date and time to the person or entity requesting the accommodation and the City Planner. Unless otherwise agreed to by the person or entity requesting the accommodation and the City Planner, the hearing officer shall hold the hearing within fourteen (14) days after the hearing officer determines that all requested information has been received and no additional information is needed. Unless agreed upon by the person or entity requesting the accommodation and the City Planner, the hearing shall be held no more than forty-five (45) days after receipt of the request by the City Planner. If the hearing officer has not received all requested information at that time, the hearing officer may continue the

hearing or deny the request based on insufficient information.

B. **Findings.** The hearing officer shall make a determination and prepare written findings within seven days after the hearing.

1. At a minimum, the written findings shall address the following issues: (i) whether the requested accommodation(s) is reasonable; (ii) whether the requested accommodation is necessary for financial and therapeutic viability; (iii) whether the facility with the requested accommodation(s) is or is not likely to create a fundamental change in the character of the residential neighborhood; and (iv) other findings in support of the hearing officer's determination.
2. The hearing officer shall mail a copy of the written determination and findings to the City Planner and the person or entity requesting the accommodation along with a letter notifying the City Planner and the person or entity requesting the accommodation that the decision is final and may be appealed to a court of competent jurisdiction.
3. The hearing officer shall forward a copy of the decision to the Mayor, the City Recorder and the City Council.

C. **Appeal.** The determination of the hearing officer shall be final and may be appealed to a court of competent jurisdiction.

16.18.090 Exemptions

A Residential Facility for Persons with a Disability shall not include facilities which house persons who are violent, who are not voluntarily residing therein, or who are residing therein as a part of or in lieu of confinement, rehabilitation, or treatment in a correctional facility.

This ordinance shall be effective immediately upon passage. A copy of this ordinance shall be posted at each of three (3) public places within the corporate limits of Midway City and a summary published in a paper of local circulation.

PASSED AND ADOPTED by the City Council of Midway City, Wasatch County, Utah this _____ day of _____ 2018.

	AYE	NAY
Council Member Ken Van Wagoner	_____	_____
Council Member Lisa Christen	_____	_____
Council Member Bob Probst	_____	_____
Council Member Jeff Drury	_____	_____

Council Member Jared Simonsen

APPROVED:

(SEAL)

Celeste Johnson, Mayor

ATTEST:

APPROVED AS TO FORM:

Brad Wilson, City Recorder

Corbin Gordon, City Attorney

SUPPORTING DOCUMENTATION

The following form the basis for the findings in support of Ordinance _____:

1. Federal Fair Housing Act
2. Utah Fair Housing Act
3. Applicable Utah Code, Utah Administrative Code, and International Building Codes attached as Exhibit A
4. Dan Jones Survey attached as Exhibit B
5. Engineering Analysis attached as Exhibit C

SUMMARY OF SUPPORTING DOCUMENTATION

Both the Federal Fair Housing Act, and the Utah Fair Housing Act establish the right for residential treatment facilities to be placed in residential neighborhoods. Midway welcomes the facilities and wishes to reasonable accommodate them.

The City has a duty to reasonably accommodate residential treatment facilities, with the limitation on accommodation when it would materially alter the residential nature of the neighborhood.

Neither the Utah Fair Housing Act nor the federal Fair Housing Amendments Act of 1988 require a municipality to waive a material zoning requirement or to fundamentally alter the residential feel of a Dwelling Unit or a surrounding neighborhood. The law provides for reasonable accommodation – to assure a place for people with disabilities to live – not to force municipalities to allow vast commercial operations to be placed in residential settings.

To determine a basis for reasonable accommodation, the City engaged Dan Jones to conduct a survey of the average number of individuals, cars, and trash cans, associated with residential homes within the city. The study and results are attached. The study establishes that the average home in Midway City has 3.02 people in it, with an average number of vehicles of 2.35, and an average of 1.21 trash containers. This study establishes a baseline for the average residential use, including number of car trips per day, the amount of noise produced, the amount of trash removed, and the amount of water used in a single family unit.

The City has passed an ordinance with a limit of eight residents and two staff members for treatment facilities. The code establishes that the applicant may request reasonable accommodation beyond these numbers.

The City has chosen these numbers based on the Dan Jones study and additional information below. Setting a limit of 10 people in residential treatment facilities, which is two standard deviations beyond the average, is aimed at accommodating use of a residential unit in a similar number of even the largest family. The limitations are aimed at preserving the residential feel and use of its neighborhoods, and to keep it in conjunction with other residences in the area.

Further, the city desires to protect against uses that are incompatible with residential neighborhoods, and that become commercial in nature and impact.

Establishing a limit of ten people, with a process to request reasonable accommodation, is further supported by engineering analysis that establishes there is a limit on how many residents a single family unit can physically accommodate due to the size of their water meter. Anything over 10 residents begins to put stress on the capacity of the system to adequately provide for the need, with that stress growing as the number grows. Anything over 16 would require a commercial sized meter of 1 ½ inches. Requests of over 10 residents can be addressed in the reasonable accommodation process to assure the needs of the home will be met.

Further, both Utah Code and Administrative Code, as well as international building code requirements that establish anything over 16 residents qualifies as an institutional use, triggering commercial building codes, and assumes commercial impacts on the neighboring community.

EXHIBIT A

Code Review for Assisted Living Facility > 16 persons

Utah Administrative Code Sections:

1. UAC 710-3.2.2.4.3: "Type 1, 2, and Residential Treatment/Support Large Facility" means an assisted living facility accommodating more than sixteen residents, excluding staff."
2. UAC 710-3.3.2.8: "Type I Large Assisted Living Facilities shall be constructed in accordance with IBC, Institutional Group I-1, and maintained in accordance with the IBC and IFC."
3. UAC 710-3.3.2.8.1: "An automatic fire sprinkler system shall be provided throughout buildings classified as Group I. Listed quick response or residential sprinkler heads shall be installed in patient or resident sleeping areas."

International Code Definitions:

1. "Facility. All or any portion of buildings, structures, site improvements, elements and pedestrian or vehicular routes located on a site."
2. "Area, building. The area included within surrounding exterior walls (or exterior walls and fire walls) exclusive of vent shafts and courts. Areas of the building not provided with surrounding walls shall be included in the building area if such areas are included within the horizontal projection of the roof or floor above."
3. "Story. That portion of a building included between the upper surface of the floor or roof next above (also see Basement, Building Height, Grade Plane and Mezzanine). It is measured as the vertical distance from top to top of two successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters."
4. "Story Above Grade Plane. Any story having its finished floor surface entirely above grade plane, or in which the finished surface of the floor next above is:
 - a. More than 6 feet above grade plane; or
 - b. More than 12 feet above the finished ground level at any point."
5. "Grade Plane. A reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or,

where the lot line is more than 6 feet from the building, between the building and a point 6 feet from the building.”

International Code Sections:

1. “Table 503, Allowable Building Heights and Areas: ^{a, b}
 - a. I-1, type VB construction: 2 stories, 4500 square feet per story.
 - b. Footnotes:
 - i. A., See the following sections for general exceptions to Table 503:
 1. Section 504.2, Allowable building height and story increase due to automatic sprinkler system installation.
 2. Section 506.2. Allowable building area increase due to street frontage.
 3. Section 506.3, Allowable building area increase due to automatic sprinkler system installation.
 4. Section 507, Unlimited area buildings.
 - ii. See Chapter 4 for specific exceptions to the allowable height and areas in Chapter 5.”
2. “504.2 Automatic sprinkler system increase. Where a building is equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1, the value specified in Table 503 for maximum building height is increased by 20 feet and the maximum number of stories is increased by one. These increases are permitted in addition to the building area increase in accordance with Sections 506.2 and 506.3....
Exception: The use of an automatic sprinkler system to increase building heights shall not be permitted for the following conditions:
 1. Buildings, or portions of buildings, classified as a Group I-2 occupancy of Type IIB, III, IV or V construction.
 2. Buildings, or portions of buildings, classified as a Group H-1, H-2, H-3 or H-5 occupancy.
3. “506 Building Area Modifications.
 - a. 506.2 Frontage increase. Every building shall adjoin or have access to a public way to receive a building area increase for frontage. Where a building has more than 25 percent of its perimeter on a public way or open space having a width of not less than 20 feet, the frontage increase shall be determined in accordance with Equation 5-2:

$I_f = [F/P - 0.25]W/30.$ " (See code for complete formula and computation method.)

- b. "506.3 Automatic sprinkler system increase. Where a building is equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1, the building area limitation in Table 503 is permitted to be increased by an additional 200 percent for buildings with more than one story above grade plane and an additional 300 percent for buildings with no more than one story above grade plane. These increases are permitted in addition to the height and story increases in accordance with Section 504.2.

Exception: The use of an automatic sprinkler system to increase the building area limitation shall not be permitted for the following conditions:

- 1. N/A
 - 2. N/A
 - 3. Buildings where an automatic sprinkler system is substituted for fire-resistance rated construction in accordance with Table 601, Note d."
- c. "903.3.1.1.NFPA 13 sprinkler systems. Where the provisions of this code require that a building or portion thereof be equipped throughout with an automatic sprinkler system in accordance with this section, sprinklers shall be installed throughout in accordance with NFPA 13 except as provided in Section 903.3.1.1.1." (remainder not applicable)

HOME / PUBLICATIONS / ADMINISTRATIVE CODE

UTAH ADMINISTRATIVE CODE

The Utah Administrative Code is the body of all effective administrative rules as compiled and organized by the Division of Administrative Rules (Subsection 63G-3-102(5); see also Sections 63G-3-701 and 702).

NOTE: For a list of rules that have been made effective since August 1, 2014, please see the [codification segue](#) page.

NOTE TO RULEFILING AGENCIES: Use the RTF version for submitting rule changes.

Download the [RTF file](#)

R710. Public Safety, Fire Marshal.

Rule R710-3. Assisted Living Facilities.

As in effect on August 1, 2014

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R710-3-1. Introduction.

Pursuant to Title 53, Chapter 7, Section 204, of the Utah Code Annotated 1953, the Utah Fire Prevention Board adopts for the purpose of establishing minimum standards for prevention of fire and for the protection of life and property against fire and panic in assisted living facilities. The requirements listed in this rule text are in addition to the requirements listed in R710-9, Rules Pursuant to the Utah Fire Prevention Law.

There is adopted as part of these rules the following codes which are incorporated by reference:

1.1 International Fire Code (IFC), 2009 edition, excluding appendices, as published by the International Code Council, Inc. (ICC), and as enacted and amended by the Utah State Legislature in Sections 102 and 201 of the State Fire Code Adoption Act.

1.2 Copies of the above code are on file in the Office of Administrative Rules and the State Fire Marshal.

R710-3-2. Definitions.

2.1 "Ambulatory" means a person who is capable of achieving mobility sufficient to exit without the physical assistance of another person. An equivalency to "Ambulatory" may be approved under the conditions stated in Sections 3.2.9, 3.3.8 or 3.4.9.

2.2 "Assisted Living Facility" means:

2.2.1 a Type 1 Assisted Living Facility, which is a residential facility subject to licensure by the Utah Department of Health, that provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the physical assistance of another person.

2.2.2 a Type 2 Assisted Living Facility, which is a residential facility subject to licensure by the Utah Department of Health, that provides an array of coordinated supportive personal and health care services to residents who meet the definition of semi-independent.

2.2.3 a Residential Treatment/Support Assisted Living Facility, which creates a group living environment for four or more residents contracted by the Division of Services to People with Disabilities and subject to licensure by the Utah Department of Human Services, and provides a protected living arrangement for

ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the physical assistance of another person.

2.2.4 Assisted Living Facilities shall be classified by size as follows:

2.2.4.1 "Type 1, 2, and Residential Treatment/Support Limited Capacity Facility" means an assisted living facility accommodating five or less residents, excluding staff.

2.2.4.2 "Type 1, 2, and Residential Treatment/Support Small Facility" means an assisted living facility accommodating at least six and not more than 16 residents, excluding staff.

2.2.4.3 "Type 1, 2, and Residential Treatment/Support Large Facility" means an assisted living facility accommodating more than sixteen residents, excluding staff.

2.3 "Authority Having Jurisdiction (AHJ)" means the State Fire Marshal, his duly authorized deputies, or the local fire enforcement authority.

2.4 "Board" means Utah Fire Prevention Board.

2.5 "Compromised Ambulatory Capacity" means physical or mental incapacitations that inhibit a person's ability to exit a facility unassisted.

2.6 "IBC" means International Building Code.

2.7 "ICC" means International Code Council, Inc.

2.8 "IFC" means International Fire Code.

2.9 "Licensing Authority" means the Utah Department of Health or the Utah Department of Human Services.

2.10 "Semi-independent" means a person who is:

2.10.1 physically disabled but able to direct his or her own care; or

2.10.2 cognitively impaired or physically disabled but able to evacuate from the facility with the physical assistance of one person.

2.11 "SFM" means State Fire Marshal.

2.12 "UAC" means Utah Administrative Code.

R710-3-3. Amendments and Additions.

3.1 General Requirements

3.1.1 All facilities shall be inspected annually and obtain a certificate of fire clearance signed by the AHJ.

3.1.2 All facility administrators shall develop emergency plans and preparedness as required in IFC, Chapter 4.

3.1.3 IFC, Chapter 9, Section 907.3 Where required in existing buildings and structures, is deleted and rewritten as follows: "An approved automatic fire detection system shall be installed in accordance with the provisions of this code and NFPA 72. Devices, combinations of devices, appliances, and equipment shall be approved. The automatic fire detectors shall be smoke detectors, except an approved alternative type of detector shall be installed in spaces such as boiler rooms where, during normal operation, products of combustion are present in sufficient quantity to actuate a smoke detector".

3.1.4. IFC, Chapter 46, Section 4603.6.2 and 4603.6.7 are deleted and rewritten as follows: "An approved automatic fire detection system shall be installed in accordance with the provisions of this code and NFPA 72. Devices, combinations of devices, appliances, and equipment shall be approved. The automatic fire detectors shall be smoke detectors, except an approved alternative type of detector shall be installed in spaces such as boiler rooms where, during normal operation, products of combustion are present in sufficient quantity to actuate a smoke detector".

3.2 Type I Assisted Living Facilities

3.2.1 Type I Limited Capacity Assisted Living Facilities shall be constructed in accordance with IBC, Residential Group R-3, and maintained in accordance with the IBC and IFC.

3.2.2 Type I Limited Capacity Assisted Living Facility required exits shall not be secured with dead bolts, chains, or hasps. Deadbolts that are interconnected with the latch, and provide simultaneous retraction of both the deadbolt and the latch, by the turning of the latch, is permitted.

3.2.3 Residents in Type I Limited Capacity Assisted Living Facilities shall be housed on the first story only, unless an approved outside exit leading to the ground level is provided from any upper or lower level. Split entry/split level type homes in which stairs to the lower and upper level are equal or nearly equal, may have residents housed on both levels when approved by the AHJ.

3.2.4 In Type I Limited Capacity Assisted Living Facilities, resident rooms on the ground level, shall have emergency escape or rescue windows as required in IFC, Chapter 10, Section 1029.

3.2.5 In Type I Limited Capacity Assisted Living Facilities an approved independent smoke detector shall be installed and maintained by location as required in IFC, Chapter 9, Section 907.2.11.2.

3.2.6 Type I Small Assisted Living Facilities shall be constructed in accordance with IBC, Residential Group R-4, and maintained in accordance with the IBC and IFC.

3.2.7 Type I Small Assisted Living Facility required exits shall not be secured with dead bolts, chains, or hasps. Deadbolts that are interconnected with the latch, and provide simultaneous retraction of both the deadbolt and the latch, by the turning of the latch, is permitted.

3.2.8 Type I Large Assisted Living Facilities shall be constructed in accordance with IBC, Institutional Group I-1, and maintained in accordance with the IBC and IFC.

3.2.8.1 An automatic fire sprinkler system shall be provided throughout buildings classified as Group I. Listed quick response or residential sprinkler heads shall be installed in patient or resident sleeping areas.

3.2.9 In a Type I Assisted Living Facility, non-ambulatory persons are permitted after receiving approval for a variance from the Utah Department of Health as allowed in Utah Administrative Code, R432-2-18.

3.3 Type II Assisted Living Facilities

3.3.1 Type II Limited Capacity Assisted Living Facilities shall be constructed in accordance with IBC, Residential Group R-4, and maintained in accordance with the IBC and IFC.

3.3.2 Type II Limited Capacity Assisted Living Facilities shall have an approved automatic fire extinguishing system installed in compliance with the IBC and IFC, or provide a staff to a resident ratio of one to one on a 24 hour basis.

3.3.3 Type II Small Assisted Living Facilities shall be constructed in accordance with IBC, Institutional Group I-1, and maintained in accordance with the IBC and IFC.

3.3.3.1 An automatic fire sprinkler system shall be provided throughout buildings classified as Group I. Listed quick response or residential sprinkler heads shall be installed in patient or resident sleeping areas.

3.3.4 Type II Small Assisted Living Facilities shall have a minimum corridor width of six feet.

3.3.4.1 Type II Small Assisted Living Facilities licensed before November 16, 2004, shall have a minimum corridor width of six feet or a path of egress that is acceptable to the AHJ.

3.3.5 Type II Large Assisted Living Facilities shall be constructed in accordance with IBC, Institutional Group I-2, and maintained in accordance with the IBC and IFC.

3.3.5.1 An automatic fire sprinkler system shall be provided throughout buildings classified as Group I. Listed quick response or residential sprinkler heads shall be installed in patient or resident sleeping areas.

3.3.6 In Type II Assisted Living Facilities, where the clinical needs of the patients require specialized security, approved access controlled egress doors may be installed when all of the following are met:

3.3.6.1 The controlled egress doors shall unlock upon activation of the automatic fire sprinkler system or the automatic fire detection system.

3.3.6.2 The facility staff can unlock the controlled egress doors by either sensor or keypad.

3.3.6.3 The controlled egress doors shall unlock upon loss of power.

3.3.6.4 The secure area or unit with controlled egress doors shall be located at the level of exit discharge in Type V construction.

3.3.7 In Type II Assisted Living Facilities, where the clinical needs of the patients require approved, listed delayed egress locks, they shall be installed on doors as allowed in IBC, Section 1008.1.9.7. Section 1008.1.9.7 (3) is deleted. The secure area or unit with delayed egress locks shall be located at the level of exit discharge in Type V construction.

3.3.8 In a Type II Assisted Living Facility, non-ambulatory persons are permitted after receiving approval for a variance from the Utah Department of Health as allowed in Utah Administrative Code, R432-2-18.

3.4 Residential Treatment/Support Assisted Living Facilities

3.4.1 Residential Treatment/Support Limited Capacity Assisted Living Facility shall be constructed in accordance with IBC, Residential Group R-3, and maintained in accordance with the IBC and IFC.

3.4.2 Residential Treatment/Support Limited Capacity Assisted Living Facility required exits shall not be secured with dead bolts, chains, or hasps. Deadbolts that are interconnected with the latch, and provide simultaneous retraction of both the deadbolt and the latch, by the turning of the latch, is permitted.

3.4.3 Residents in Residential Treatment/Support Limited Capacity Assisted Living Facilities shall be housed on the first story only, unless an approved outside exit leading to the ground level is provided from any upper or lower level. Split entry/split level type homes in which stairs to the lower and upper level are equal or nearly equal, may have residents housed on both levels when approved by the AHJ.

3.4.4 In Residential Treatment/Support Limited Capacity Assisted Living Facilities, resident rooms on the ground level, shall have emergency escape or rescue windows as required in IFC, Chapter 10, Section 1029.

3.4.5 In Residential Treatment/Support Limited Capacity Assisted Living Facilities an approved independent smoke detector shall be installed and maintained by location as required in IFC, Chapter 9, Section 907.2.11.2.

3.4.6 Residential Treatment/Support Small Assisted Living Facilities shall be constructed in accordance with IBC, Residential Group R-4, and maintained in accordance with the IBC and IFC.

3.4.6.1 IFC, Chapter 9, Section 903.2.8 is amended to add the following: Exception: Residential Treatment/Support Assisted Living Facility classified as Group R-4, not more than 4500 gross square feet, and not containing more than 16 ambulatory, non-restrained residents, is allowed provided the building is

equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring.

3.4.7 Residential Treatment/Support Small Assisted Living Facility required exits shall not be secured with dead bolts, chains, or hasps. Deadbolts that are interconnected with the latch, and provide simultaneous retraction of both the deadbolt and the latch, by the turning of the latch, is permitted.

3.4.8 Residential Treatment/Support Large Assisted Living Facilities shall be constructed in accordance with IBC, Institutional Group I-1, and maintained in accordance with the IBC and IFC.

3.4.8.1 An automatic fire sprinkler system shall be provided throughout buildings classified as Group I. Listed quick response or residential sprinkler heads shall be installed in patient or resident sleeping areas.

3.4.9 In a Residential Treatment/Support Assisted Living Facility, residents with compromised ambulatory capacity that can demonstrate the ability to exit the facility unassisted in two minutes or less, and meet the requirements listed in Utah Administrative Code, R501-2-11, Emergency Plans, may receive approval from the Office of Licensing, Utah Department of Human Services, to remain in the facility as a resident.

3.4.9.1 In those facilities where the Office of Licensing, Department of Human Services, determines that the resident cannot exit the facility unassisted in two minutes or less, the facility management shall complete one of the following:

3.4.9.1.1 Make accommodations, changes or enact an emergency plan that guarantees the exiting of the resident in two minutes or less.

3.4.9.1.2 Provide a staff to resident ratio of one to one on a 24 hour basis.

3.4.9.1.3 Install an approved automatic fire sprinkler system.

3.4.9.1.4 Move the resident from the facility.

R710-3-4. Repeal of Conflicting Board Actions.

All former Board actions, or parts thereof, conflicting or inconsistent with the provisions of this Board action or of the codes hereby adopted, are hereby repealed.

R710-3-5. Validity.

The Board hereby declares that should any section, paragraph, sentence, or word of this Board action, or the codes adopted, be declared invalid, it is the intent of the Board that it would have passed all other portions of this action, independent of the elimination of any portions as may be declared invalid.

R710-3-6. Conflicts.

In the event where separate requirements pertain to the same situation in the adopted codes, the more restrictive requirement shall govern, as determined by the AHJ.

R710-3-7. Adjudicative Proceedings.

7.1 All adjudicative proceedings performed by the agency shall proceed informally as set forth herein and as authorized by UCA, Sections 63G-4-202 and 63G-4-203.

7.2 A person may request a hearing on a decision made by the AHJ by filing an appeal to the Board within 20 days after receiving final decision from the AHJ.

7.3 All adjudicative proceedings, other than criminal prosecution, taken by the AHJ to enforce the Utah Fire Prevention and Safety Act, and these rules, shall commence in accordance with UCA, Section 63G-4-201.

7.4 The Board shall act as the hearing authority, and shall convene as an appeals board after timely notice to all parties involved.

7.5 The Board shall direct the SFM to issue a signed order to the parties involved giving the decision of the Board within a reasonable time of the hearing pursuant to UCA, Section 63G-4-203.

7.6 Reconsideration of the Board's decision may be requested in writing within 20 days of the date of the decision pursuant to UCA, Section 63G-4-302.

7.7 Judicial review of all final Board actions resulting from informal adjudicative proceedings is available pursuant to UCA, Section 63G-4-402.

KEY

assisted living facilities

Date of Enactment or Last Substantive Amendment

October 18, 2010

Notice of Continuation

May 23, 2012

Authorizing, Implemented, or Interpreted Law

53-7-204

ADDITIONAL INFORMATION

CONTACT

For questions regarding the content or application of rules under Title R710, please contact the promulgating agency (Public Safety, Fire Marshal). A list of agencies with links to their homepages is available at <http://www.utah.gov/government/agencylist.html> or from <http://www.rules.utah.gov/contact/agencycontacts.htm>.

HOME / PUBLICATIONS / ADMINISTRATIVE CODE

UTAH ADMINISTRATIVE CODE

The Utah Administrative Code is the body of all effective administrative rules as compiled and organized by the Division of Administrative Rules (Subsection 63G-3-102(5); see also Sections 63G-3-701 and 702).

NOTE: For a list of rules that have been made effective since August 1, 2014, please see the [codification segue](#) page.

NOTE TO RULEFILING AGENCIES: Use the RTF version for submitting rule changes.

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R710. Public Safety, Fire Marshal.

Rule R710-4. Buildings Under the Jurisdiction of the State Fire Prevention Board.

As in effect on August 1, 2014

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R710-4-1. Adoption of Fire Codes.

Pursuant to Title 53, Chapter 7, Section 204, of the Utah Code Annotated 1953, the Utah Fire Prevention Board adopts minimum rules for the prevention of fire and for the protection of life and property against fire and panic in any publicly owned building, including all public and private schools, colleges, and university buildings, and in any building or structure used or intended for use, as an asylum, hospital, mental hospital, sanitarium, home for the aged, assisted living facility, children's home or day care center, or any similar institutional type occupancy of any capacity; and in any place of assemblage where fifty (50) or more persons may gather together in a building, structure, tent, or room, for the purpose of amusement, entertainment, instruction, or education. The requirements listed in this rule text are in addition to the requirements listed in R710-9, Rules Pursuant to the Utah Fire Prevention Law.

There is further adopted as part of these rules the following codes which are incorporated by reference:

1.1 National Fire Protection Association (NFPA), Standard 101, Life Safety Code (LSC), 2009 edition, except as amended by provisions listed in R710-4-3, et seq. The following chapters from NFPA, Standard 101 are the only chapters adopted: Chapter 18 - New Health Care Occupancies; Chapter 19 - Existing Health Care Occupancies; Chapter 20 - New Ambulatory Health Care Occupancies; Chapter 21 - Existing Ambulatory Health Care Occupancies; Chapter 22 - New Detention and Correctional Occupancies; Chapter 23 - Existing Detention and Correctional Occupancies; and other sections referenced within and pertaining to these chapters only. Wherever there is a section, figure or table in NFPA 101 that references "NFPA 5000 - Building Construction and Safety Code", that reference shall be replaced with the "International Building Code".

1.2 International Fire Code (IFC), 2009 edition, excluding appendices, as published by the International Code Council, Inc. (ICC), and as enacted and amended by the Utah State Legislature in Sections 102 and 201 of the State Fire Code Adoption Act.

1.3 Copies of the above codes are on file in the Office of Administrative Rules and the State Fire Marshal.

R710-4-2. Definitions.

2.1 "Authority Having Jurisdiction (AHJ)" means the State Fire Marshal, his authorized deputies, or the local fire enforcement authority.

- 2.2 "Board" means Utah Fire Prevention Board.
- 2.3 "Bureau of Fire Prevention or Fire Prevention Bureau" means the AHJ.
- 2.4 "Fire Chief or Chief of the Department" means the AHJ.
- 2.5 "Fire Department" means the AHJ.
- 2.6 "Fire Marshal" means the AHJ.
- 2.7 "Fire Officer" means the State Fire Marshal, the state fire marshal's deputies, the fire chief or fire marshal of any county, city, or town fire department, the fire officer of any fire district or special service district organized for fire protection purposes is the AHJ.
- 2.8 "IBC" means International Building Code.
- 2.9 "ICC" means International Code Council, Inc.
- 2.10 "IFC" means International Fire Code.
- 2.11 "IFGC" means International Fuel Gas Code.
- 2.12 "IMC" means International Mechanical Code.
- 2.13 "IPC" means International Plumbing Code.
- 2.14 "LSC" means Life Safety Code.
- 2.15 "NEC" means National Electric Code.
- 2.16 "NFPA" means National Fire Protection Association.
- 2.17 "SFM" means State Fire Marshal.
- 2.18 "UCA" means Utah State Code Annotated 1953 as amended.

R710-4-3. Amendments and Additions.

3.1 Fire Drills

3.1.1 IFC, Chapter 4, Section 405.2, Table 405.2, is amended to add the following footnotes:

e. Secondary schools in Group E occupancies shall have an emergency evacuation drill for fire conducted at least every two months, to a total of four emergency evacuation drills during the nine-month school year. The first emergency evacuation drill for fire shall be conducted within 10 school days of the beginning of classes, and the third emergency evacuation drill for fire shall be conducted within 10 school days after the beginning of the next calendar year. The second and fourth emergency evacuation drills may be substituted by a security or safety drill to include shelter in place, earthquake drill or lock down for violence.

f. In Group E occupancies, excluding secondary schools, the monthly required emergency evacuation drill may be substituted by a security or safety drill to include shelter in place, earthquake drill or lock down for violence. The routine emergency evacuation drill for fire must be conducted at least every other evacuation drill.

g. A-3 occupancies in academic buildings of institutions of higher learning are required to have one emergency evacuation drill per year, provided the following conditions are met:

- 1. The building has a fire alarm system in accordance with Section 907.2.
- 2. The rooms classified as assembly, shall have fire safety floor plans as required in Section 404.3.2(4) posted.
- 3. The building is not classified a high-rise building.
- 4. The building does not contain hazardous materials over the allowable quantities by code.

3.2 Door Closures

3.2.1 IFC, Chapter 7, Section 703.2. Add the following: Exception: In Group E Occupancies, where the corridor serves an occupant load greater than 30 and the building does not have an automatic fire sprinkler system installed, the door closures may be of the friction hold-open type on classrooms doors with a rating of 20 minutes or less only.

3.3 Fire Protection Systems

3.3.1 IFC, Chapter 9, Section 903.2.8 is amended to add the following: Exception: Group R-4 fire areas not more than 4500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring and a commercial power system.

3.3.2 Water Supply Analysis

3.3.2.1 For proposed construction in both sprinklered and unsprinklered occupancies, the owner or architect shall provide an engineer's water supply analysis evaluating the available water supply.

3.3.2.2 The owner or architect shall provide the water supply analysis during the preliminary design phase of the proposed construction.

3.3.2.3 The water analysis shall be representative of the supply that may be available at the time of a fire as required in NFPA, Standard 13, Annex A.15.2.1.

3.3.3 Fire Alarm Systems

3.3.3.1 Required Installations

3.3.3.1.1 All state-owned buildings, college and university buildings, other than institutional, with an occupant load of 300 or more, all schools with an occupant load of 50 or more, shall have an approved fire alarm system with the following features:

3.3.3.1.1.1 Automatic detection devices that detect smoke shall be installed throughout all corridors and spaces open to the corridor at the maximum prescribed spacing of thirty feet on center and no more than fifteen feet from the walls or smoke detectors shall be installed as required in NFPA, Standard 72, Section 5.3.

3.3.3.1.1.2 Where structures are not protected or partially protected with an automatic fire sprinkler system, approved automatic detectors shall be installed in accordance with the complete coverage requirements of NFPA, Standard 72.

3.3.3.1.1.3 Manual fire alarm boxes shall be provided as required. In public and private elementary and secondary schools, manual fire alarm boxes shall be provided in the boiler room, kitchen, and main administrative office of each building, and any other areas as determined by the AHJ.

3.3.3.2 Main Panel

3.3.3.2.1 An approved key plan drawing and operating instructions shall be posted at the main fire alarm panel which displays the location of all alarm zones and if applicable, device addresses.

3.3.3.2.2 The main panel shall be located in a normally attended area such as the main office or lobby. Location of the Main Panel other than as stated above, shall require the review and authorization of the SFM. Where location as required above is not possible, an electronically supervised remote annunciator from the main panel shall be located in a supervised area of the building. The remote annunciator shall visually indicate system power status, alarms for each zone, and give both a visual and audible indication of trouble conditions in the system. All indicators on both the main panel and remote annunciator shall be adequately labeled.

3.3.3.3 System Wiring, Class and Style

3.3.3.3.1 Fire alarm system wiring shall be designated and installed as follows:

3.3.3.3.1.1 The initiating device circuits shall be designated and installed Class A as defined in NFPA, Standard 72.

3.3.3.3.1.2 The notification appliance circuits shall be designated and installed Class A as defined in NFPA, Standard 72.

3.3.3.3.1.3 Signaling line circuits shall be designated and installed Style 6 or 7 as defined in NFPA, Standard 72.

3.3.3.4 Fan Shut Down

3.3.3.4.1 Fan shut down shall be as required in IMC, Chapter 6, Section 606.

3.3.3.4.2 Duct detectors required by the IMC, shall be interconnected, and compatible with the fire alarm system.

3.3.3.5 Nuisance Alarms

3.3.3.5.1 IFC, Chapter 9, Section 907.9.5 is amended to add the following sentences: Increases in nuisance alarms shall require the fire alarm system to be tested for sensitivity. Fire alarm systems that continue after sensitivity testing with unwarranted nuisance alarms shall be replaced as directed by the AHJ.

3.4 Time Out and Seclusion Rooms

3.4.1 Time Out and Seclusion Rooms are allowed in occupancies protected by an automatic fire alarm system.

3.4.2 A vision panel shall be provided in the room door for observation purposes.

3.4.3 Time Out and Seclusion Room doors may not be fitted with a lock unless it is a self-releasing latch that releases automatically if not physically held in the locked position by an individual on the outside of the door.

3.4.4 Time Out and Seclusion Rooms shall be located where a responsible adult can maintain visual monitoring of the person and room.

R710-4-4. Repeal of Conflicting Board Actions.

All former Board actions, or parts thereof, conflicting or inconsistent with the provisions of this Board action or of the codes hereby adopted, are hereby repealed.

R710-4-5. Validity.

The Board hereby declares that should any section, paragraph, sentence, or word of this Board action, or of the codes hereby adopted, be declared, for any reason, to be invalid, it is the intent of the Board that it would have passed all other portions of this Board action, independent of the elimination here from of any such portion as may be declared invalid.

R710-4-6. Conflicts.

In the event where separate requirements pertain to the same situation in the same code, or between different codes as adopted, the more restrictive requirement shall govern, as determined by the AHJ, or his authorized representative.

R710-4-7. Adjudicative Proceedings.

7.1 All adjudicative proceedings performed by the agency shall proceed informally as set forth herein and as authorized by UCA, Sections 63G-4-202 and 63G-4-203.

7.2 A person may request a hearing on a decision made by the AHJ, by filing an appeal to the Board within 20 days after receiving final decision from the AHJ.

7.3 All adjudicative proceedings, other than criminal prosecution, taken by the AHJ to enforce the Utah Fire Prevention and Safety Act, and these rules, shall commence in accordance with UCA, Section 63G-4-201.

7.4 The Board shall act as the hearing authority, and shall convene as an appeals board after timely notice to all parties involved.

7.5 The Board shall direct the SFM to issue a signed order to the parties involved giving the decision of the Board within a reasonable time of the hearing pursuant to UCA, Section 63G-4-203.

7.6 Reconsideration of the Board's decision may be requested in writing within 20 days of the date of the decision pursuant to UCA, Section 63G-4-302.

7.7 Judicial review of all final Board actions resulting from informal adjudicative proceedings is available pursuant to UCA, Section 63G-4-402.

KEY

fire prevention, public buildings

Date of Enactment or Last Substantive Amendment

May 22, 2012

Notice of Continuation

May 24, 2012

Authorizing, Implemented, or Interpreted Law

53-7-204

ADDITIONAL INFORMATION

CONTACT

For questions regarding the content or application of rules under Title R710, please contact the promulgating agency (Public Safety, Fire Marshal). A list of agencies with links to their homepages is available at <http://www.utah.gov/government/agencylist.html> or from <http://www.rules.utah.gov/contact/agencycontacts.htm>.

HOME / PUBLICATIONS / ADMINISTRATIVE CODE

UTAH ADMINISTRATIVE CODE

The Utah Administrative Code is the body of all effective administrative rules as compiled and organized by the Division of Administrative Rules (Subsection 63G-3-102(5); see also Sections 63G-3-701 and 702).

NOTE: For a list of rules that have been made effective since August 1, 2014, please see the [codification segue](#) page.

NOTE TO RULEFILING AGENCIES: Use the RTF version for submitting rule changes.

Download the [RTF file](#)

R501. Human Services, Administration, Administrative Services, Licensing.

Rule R501-11. Social Detoxification Programs.

As in effect on August 1, 2014

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R501-11-1. Authority.

Pursuant to 62A-2-101 et seq., the Office of Licensing, shall license social detoxification programs according to the following rules.

R501-11-2. Purpose.

A social detoxification program offers room, board and specialized rehabilitation services to persons who are in an intoxicated state, or withdrawing from alcohol or drugs. In social detoxification, individuals are assisted in acquiring the sobriety and a drug free condition necessary for living in the community and the program places an emphasis on helping the individual obtain further care after detoxification.

R501-11-3. Definition.

Social detoxification Program means a short-term non-medical treatment service for individuals unrelated to the owner or provider in accordance with 62A-2-101(18).

R501-11-4. Administration.

- A. In addition to the following rules, all social detoxification programs shall comply with R501-2, Core Rules.
- B. A current list of enrollment of all registered consumers shall be on-site at all times.

R501-11-5. Staffing.

A. Each program shall have an employed manager who is responsible for the day to day resident supervision and operation of the facility. The responsibilities of the manager shall be clearly defined. Whenever the manager is absent there shall be a substitute available.

B. Professional staff shall include at least one of the following individuals who have received training to work with substance abusers:

1. a licensed physician, or a consulting licensed physician, or
2. a licensed mental health therapist, or a consulting licensed mental health therapist, or
3. a licensed psychologist or consulting licensed psychologist, and
4. a licensed substance abuse counselor or unlicensed staff who work with substance abusers shall be supervised by a licensed clinical professional.

C. The program shall have a staff person trained, by a certified instructor in standard first aid and CPR, on duty with the consumers at all times. Training shall be updated as required by the certifying agency.

R501-11-6. Direct Service.

Program service records shall contain the following:

A. name, address, telephone number and admission date,

B. emergency information with names, addresses and telephone number, of a preferred individual and next of kin. Services will not be refused if a person is too intoxicated to provide accurate and detailed emergency information. The program shall obtain thorough information as soon as the client is able to report, and

C. a statement indicating that the consumer meets the admission criteria.

R501-11-7. Physical Environment.

A. The program shall maintain appropriate documentation of compliance with the following items as applicable:

1. local zoning ordinances, for "I" occupancies only,
2. local business license,
3. local building codes,
4. local fire safety regulations, and
5. local health codes.

B. The program shall provide written approval from the appropriate local government agency for new program services or increased consumer capacity.

C. Building and Grounds

1. The program shall insure that the appearance and cleanliness of the building and grounds are maintained.
2. The program shall take reasonable measures to ensure a safe physical environment for consumers and staff.

R501-11-8. Physical Facility.

A. Staff Quarters: A 24 hour live-in staff shall have separate living space with a private bathroom.

B. The program shall have space to serve as an administrative office for records, secretarial work and bookkeeping.

C. Sleeping Space.

1. Large rooms may be used as dormitory style bedrooms.
2. A minimum of 50 square feet per consumer shall be provided in a multiple occupant bedroom. Storage space shall not be counted.
3. A minimum of 70 square feet per individual shall be provided in a single occupant bedroom. Storage space shall not be counted.
4. Sleeping areas shall have a source of natural light, and shall be ventilated by mechanical means or equipped with a screened window that opens.
5. There shall be an escape window for each sleeping room unless there are two ways to exit the room.
6. Each bed, none of which shall be portable, shall be solidly constructed and be provided with clean linens after each consumer stay and at least weekly.
7. Sleeping quarters serving male and female residents shall be structurally separated.

D. Bathrooms

1. Bathrooms shall meet a minimum ratio of one toilet, one lavatory, and one tub or shower for each eight residents. These shall be maintained in good operating order and in a clean and safe condition.

2. Toilets and baths or showers shall allow for individual privacy. They shall also accommodate consumers with physical disabilities, as required by the state building code.
3. Bathroom mirrors shall be secured to the walls at convenient heights.
4. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene.
5. Bathrooms shall be ventilated by mechanical means or equipped with a screened window that opens.

R501-11-9. Equipment.

- A. Furniture and equipment shall be of sufficient quantity, variety and quality to meet program and consumer needs.
- B. All furniture and equipment shall be maintained in a clean and safe condition.

R501-11-10. Laundry Service.

- A. Programs which provide for common laundry of linens and clothing, shall provide containers for soiled laundry separate from storage for clean linens and clothing.
- B. Laundry appliances shall be maintained in good operating order and in a clean and safe condition.

R501-11-11. Food Service.

- A. One person shall be responsible for food service. If this person is not a professionally qualified dietician, annual consultation with a qualified dietitian shall be obtained.
- B. The person responsible for food service shall maintain a current list of consumers with special nutritional needs, record in the consumer's service record information relating to special nutritional needs, and provide nutrition counseling where indicated.
- C. Kitchens shall have clean and safe operational equipment for the preparation, storage, serving and clean up of all meals.

R501-11-12. Medication.

- A. The program shall have locked storage for medications.
- B. The program shall have locked storage for hazardous chemicals and materials according to the direction of the local fire authorities. Any flammable or hazardous chemicals or materials shall be stored in appropriate well-ventilated storage area.
- C. The program shall have designated qualified staff, who shall be responsible to:
 1. administer or supervise medication,
 2. supervise self-medication,
 3. record medication, including time and dosage, according to prescription, and
 4. record effects of medication.

R501-11-13. Specialized Services.

- A. The program shall not admit those who are currently experiencing convulsions, in shock, delirium tremens, in a coma, or unconscious.
- B. The program shall complete a preliminary screening at the time an individual presents for service to determine appropriateness for social model detox. The intake evaluation is completed within seven days.
- C. Consumers shall demonstrate recent evidence of a Tuberculosis screening or be tested for Tuberculosis within one weeks. Clients who exhibit signs of possible active tuberculosis will be screened immediately with assistance from the local health department. Health department recommendations will be followed. Program staff will be tested every six months.
- D. Once the client has completed the acute detox period as demonstrated by reasonable physical and psychological stability, case managers will conduct an evaluation to determine the treatment referral.

KEY

licensing, human services, substance abuse

Date of Enactment or Last Substantive Amendment

January 30, 2003

Notice of Continuation

October 18, 2012

Authorizing, Implemented, or Interpreted Law

62A-2-101 et seq.

ADDITIONAL INFORMATION

CONTACT

For questions regarding the content or application of rules under Title R501, please contact the promulgating agency (Human Services, Administration, Administrative Services, Licensing). A list of agencies with links to their homepages is available at <http://www.utah.gov/government/agencylist.html> or from <http://www.rules.utah.gov/contact/agencycontacts.htm>.

R710. Public Safety, Fire Marshal.

R710-3. Assisted Living Facilities.

R710-3-1. Purpose.

The purpose of this rule is to establish the minimum standards for prevention of fire and for the protection of life and property against fire and panic in assisted living facilities.

R710-3-2 Authority.

This rule is authorized by Section 53- 7- 204.

R710-3-3 Definitions.

(1) "Ambulatory" means a person who is capable of achieving mobility sufficient to exit without the physical assistance of another person. An equivalency to "Ambulatory" may be approved under the conditions stated in Subsections R710-3-4(2)(h), R710-3-4(3)(f), or R710-3-4(4)(j).

(2) "Assisted Living Facility" means:

(a) a Type 1 Assisted Living Facility, which is a residential facility subject to licensure by the Utah Department of Health, that provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the physical assistance of another person;

(b) a Type 2 Assisted Living Facility, which is a residential facility subject to licensure by the Utah Department of Health, that provides an array of coordinated supportive personal and health care services to residents who meet the definition of semi-independent; or

(c) a Residential Treatment/Support Assisted Living Facility, which creates a group living environment for four or more residents contracted by the Division of Services to People with Disabilities and subject to licensure by the Utah Department of Human Services, and provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the physical assistance of another person.

(d) Assisted Living Facilities shall be classified by size as follows:

(i) "Type 1, 2, and Residential Treatment/Support Limited Capacity Facility" means an assisted living facility accommodating five or less residents, excluding staff.

(ii) "Type 1, 2, and Residential Treatment/Support Small Facility" means an assisted living facility accommodating at least six and not more than 16 residents, excluding staff.

(iii) "Type 1, 2, and Residential Treatment/Support Large Facility" means an assisted living facility accommodating more than sixteen residents, excluding staff.

(3) "Authority Having Jurisdiction (AHJ)" means the State Fire Marshal, his duly authorized deputies, or the local fire enforcement authority.

(4) "Board" means Utah Fire Prevention Board.

(5) "Compromised Ambulatory Capacity" means physical or mental incapacitations that inhibit a person's ability to exit a facility unassisted.

(6) "IBC" means International Building Code.

(7) "ICC" means International Code Council, Inc.

(8) "IFC" means International Fire Code.

(9) "Licensing Authority" means the Utah Department of Health or the Utah Department of Human Services.

(10) "Semi-independent" means a person who is:

(a) physically disabled but able to direct his or her own care; or

(b) cognitively impaired or physically disabled but able to evacuate from the facility with the physical assistance of one person.

(11) "SFM" means State Fire Marshal.

R710-3-4. Amendments and Additions.

(1) General Requirements

ALF

Res.
Treatment

(a) All facilities shall be inspected annually and obtain a certificate of fire clearance signed by the AHJ.

(b) All facility administrators shall develop emergency plans and preparedness as required in IFC, Chapter 4.

(c) An approved automatic fire detection system shall be installed in accordance with the provisions of this code and NFPA 72. Devices, combinations of devices, appliances, and equipment shall be approved. The automatic fire detectors shall be smoke detectors, except an approved alternative type of detector shall be installed in spaces such as boiler rooms where, during normal operation, products of combustion are present in sufficient quantity to actuate a smoke detector.

(2) Type I Assisted Living Facilities

(a) Type I Limited Capacity Assisted Living Facilities shall be constructed in accordance with IBC, Residential Group R-3, and maintained in accordance with the IBC and IFC. < 5

(b) Type I Limited Capacity Assisted Living Facility required exits shall not be secured with dead bolts, chains, or hasps. Deadbolts that are interconnected with the latch, and provide simultaneous retraction of both the deadbolt and the latch, by the turning of the latch, is permitted.

(c) Residents in Type I Limited Capacity Assisted Living Facilities shall be housed on the first story only, unless an approved outside exit leading to the ground level is provided from any upper or lower level. Split entry/split level type homes in which stairs to the lower and upper level are equal or nearly equal, may have residents housed on both levels when approved by the AHJ.

(d) In Type I Limited Capacity Assisted Living Facilities, resident rooms on the ground level, shall have emergency escape or rescue opening as required in IFC, Chapter 10, Section 1030.

(e) In Type I Limited Capacity Assisted Living Facilities an approved independent smoke detector shall be installed and maintained by location as required in IFC, Chapter 9, Section 907.2.11.2.

(f) Type I Small Assisted Living Facilities shall be constructed in accordance with IBC, Residential Group R-4, and maintained in accordance with the IBC and IFC. 6-16

(g) Type I Small Assisted Living Facility required exits shall not be secured with dead bolts, chains, or hasps. Deadbolts that are interconnected with the latch, and provide simultaneous retraction of both the deadbolt and the latch, by the turning of the latch, is permitted.

(h) In a Type I Assisted Living Facility, non-ambulatory persons are permitted after receiving approval for a variance from the Utah Department of Health as allowed in Utah Administrative Code, R432-2-18.

(3) Type II Assisted Living Facilities

(a) Type II Limited Capacity Assisted Living Facilities shall be constructed in accordance with IBC, Residential Group R-4, and maintained in accordance with the IBC and IFC. < 5

(b) Type II Limited Capacity Assisted Living Facilities shall have an approved automatic fire extinguishing system installed in compliance with the IBC and IFC, or provide a staff to a resident ratio of one to one on a 24 hour basis.

(c) Type II Small Assisted Living Facilities shall be constructed in accordance with IBC, Institutional Group I-1, and maintained in accordance with the IBC and IFC. 6-16

(d) Type II Small Assisted Living Facilities shall have a minimum corridor width of six feet.

(i) Type II Small Assisted Living Facilities licensed before November 16, 2004, shall have a minimum corridor width of six feet or a path of egress that is acceptable to the AHJ.

(e) Type II Large Assisted Living Facilities shall be constructed in accordance with IBC, Institutional Group I-2, and maintained in accordance with the IBC and IFC. > 16

(i) An automatic fire sprinkler system shall be provided throughout buildings classified as Group I. Listed quick response or residential sprinkler heads shall be installed in patient or resident sleeping areas.

(f) In a Type II Assisted Living Facility, non-ambulatory persons are permitted after receiving approval for a variance from the Utah Department of Health as allowed in Utah Administrative Code, R432-2-18.

(4) Residential Treatment/Support Assisted Living Facilities

(a) Residential Treatment/Support Limited Capacity Assisted Living Facility shall be constructed in accordance with IBC, Residential Group R-3, and maintained in accordance with the IBC and IFC.

(b) Residential Treatment/Support Limited Capacity Assisted Living Facility required exits shall not be secured with dead bolts, chains, or hasps. Deadbolts that are interconnected with the latch, and provide simultaneous retraction of both the deadbolt and the latch, by the turning of the latch, is permitted.

(c) Residents in Residential Treatment/Support Limited Capacity Assisted Living Facilities shall be housed on the first story only, unless an approved outside exit leading to the ground level is provided from any upper or lower level. Split entry/split level type homes in which stairs to the lower and upper level are equal or nearly equal, may have residents housed on both levels when approved by the AHJ.

(d) In Residential Treatment/Support Limited Capacity Assisted Living Facilities, resident rooms on the ground level, shall have emergency escape or rescue windows as required in IFC, Chapter 10, Section 1029.

(e) In Residential Treatment/Support Limited Capacity Assisted Living Facilities an approved independent smoke detector shall be installed and maintained by location as required in IFC, Chapter 9, Section 907.2.11.2.

(f) Residential Treatment/Support Small Assisted Living Facilities shall be constructed in accordance with IBC, Residential Group R-4, and maintained in accordance with the IBC and IFC. 6-16

(i) IFC, Chapter 9, Section 903.2.8 is amended to add the following: Exception: Residential Treatment/Support Assisted Living Facility classified as Group R-4, not more than 4500 gross square feet, and not containing more than 16 ambulatory, non-restrained residents, is allowed provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring.

(g) Residential Treatment/Support Small Assisted Living Facility required exits shall not be secured with dead bolts, chains, or hasps. Deadbolts that are interconnected with the latch, and provide simultaneous retraction of both the deadbolt and the latch, by the turning of the latch, is permitted.

(h) Residential Treatment/Support Large Assisted Living Facilities shall be constructed in accordance with IBC, Institutional Group I-1, and maintained in accordance with the IBC and IFC. 7-16

(i) An automatic fire sprinkler system shall be provided throughout buildings classified as Group I. Listed quick response or residential sprinkler heads shall be installed in patient or resident sleeping areas.

(j) In a Residential Treatment/Support Assisted Living Facility, residents with compromised ambulatory capacity that can demonstrate the ability to exit the facility unassisted in two minutes or less, and meet the requirements listed in Utah Administrative Code, R501-2-11, Emergency Plans, may receive approval from the Office of Licensing, Utah Department of Human Services, to remain in the facility as a resident.

(i) In those facilities where the Office of Licensing, Department of Human Services, determines that the resident cannot exit the facility unassisted in two minutes or less, the facility management shall complete one of the following:

(A) make accommodations, changes or enact an emergency plan that guarantees the exiting of the resident in two minutes or less;

(B) provide a staff to resident ratio of one to one on a 24 hour basis;

(C) install an approved automatic fire sprinkler system; or

(D) move the resident from the facility.

R710-3-5. Repeal of Conflicting Board Actions.

All former Board actions, or parts thereof, conflicting or inconsistent with the provisions of this Board action or of the codes hereby adopted, are hereby repealed.

R710-3-6. Validity.

The Board hereby declares that should any section, paragraph, sentence, or word of this Board action, or the codes adopted, be declared invalid, it is the intent of the Board that it would have passed all other portions of this action, independent of the elimination of any portions as may be declared invalid.

R710-3-7. Conflicts.

In the event where separate requirements pertain to the same situation in the adopted codes, the more restrictive requirement shall govern, as determined by the AHJ.

R710-3-8. Adjudicative Proceedings.

(1) All adjudicative proceedings performed by the agency shall proceed informally as set forth herein and as authorized by UCA, Sections 63G-4-202 and 63G 4-203.

(2) A person may request a hearing on a decision made by the AHJ by filing an appeal to the Board within 20 days after receiving final decision from the AHJ.

(3) All adjudicative proceedings, other than criminal prosecution, taken by the AHJ to enforce the Utah Fire Prevention and Safety Act, and these rules, shall commence in accordance with UCA, Section 63G-4-201.

(4) The Board shall act as the hearing authority, and shall convene as an appeals board after timely notice to all parties involved.

(5) The Board shall direct the SFM to issue a signed order to the parties involved giving the decision of the Board within a reasonable time of the hearing pursuant to UCA, Section 63G-4-203.

(6) Reconsideration of the Board's decision may be requested in writing within 20 days of the date of the decision pursuant to UCA, Section 63G-4-302.

(7) Judicial review of all final Board actions resulting from informal adjudicative proceedings is available pursuant to UCA, Section 63G-4-402.

KEY: assisted living facilities

Date of Enactment or Last Substantive Amendment: June 9, 2016

Notice of Continuation: May 23, 2012

Authorizing, and Implemented or Interpreted Law: 53-7-204

[F] **307.6 High-hazard Group H-4.** Buildings and structures containing materials that are health hazards shall be classified as Group H-4. Such materials shall include, but not be limited to, the following:

- Corrosives
- Highly toxic materials
- Toxic materials

[F] **307.7 High-hazard Group H-5.** Semiconductor fabrication facilities and comparable research and development areas in which hazardous production materials (HPM) are used and the aggregate quantity of materials is in excess of those listed in Tables 307.1(1) and 307.1(2) shall be classified as Group H-5. Such facilities and areas shall be designed and constructed in accordance with Section 415.10.

[F] **307.8 Multiple hazards.** Buildings and structures containing a material or materials representing hazards that are classified in one or more of Groups H-1, H-2, H-3 and H-4 shall conform to the code requirements for each of the occupancies so classified.

SECTION 308 INSTITUTIONAL GROUP I

308.1 Institutional Group I. Institutional Group I occupancy includes, among others, the use of a building or structure, or a portion thereof, in which care or supervision is provided to persons who are or are not capable of self-preservation without physical assistance or in which persons are detained for penal or correctional purposes or in which the liberty of the occupants is restricted. Institutional occupancies shall be classified as Group I-1, I-2, I-3 or I-4.

308.2 Definitions. The following terms are defined in Chapter 2:

24-HOUR BASIS.

CUSTODIAL CARE.

DETOXIFICATION FACILITIES.

FOSTER CARE FACILITIES.

HOSPITALS AND PSYCHIATRIC HOSPITALS.

INCAPABLE OF SELF-PRESERVATION.

MEDICAL CARE.

NURSING HOMES.

308.3 Institutional Group I-1. Institutional Group I-1 occupancy shall include buildings, structures or portions thereof for **more than 16 persons**, excluding staff, who reside on a 24-hour basis in a supervised environment and receive custodial care. Buildings of Group I-1 shall be classified as one of the occupancy conditions specified in Section 308.3.1 or 308.3.2. This group shall include, but not be limited to, the following:

- Alcohol and drug centers
- Assisted living facilities
- Congregate care facilities
- Group homes
- Halfway houses
- Residential board and care facilities
- Social rehabilitation facilities

308.3.1 Condition 1. This occupancy condition shall include buildings in which all persons receiving custodial care who, without any assistance, are capable of responding to an emergency situation to complete building evacuation.

308.3.2 Condition 2. This occupancy condition shall include buildings in which there are any persons receiving custodial care who require limited verbal or physical assistance while responding to an emergency situation to complete building evacuation.

308.3.3 Six to 16 persons receiving custodial care. A facility housing not fewer than six and not more than 16 persons receiving custodial care shall be classified as Group R-4.

308.3.4 Five or fewer persons receiving custodial care. A facility with five or fewer persons receiving custodial care shall be classified as Group R-3 or shall comply with the *International Residential Code* provided an *automatic sprinkler system* is installed in accordance with Section 903.3.1.3 or Section P2904 of the *International Residential Code*.

308.4 Institutional Group I-2. Institutional Group I-2 occupancy shall include buildings and structures used for *medical care* on a 24-hour basis for more than five persons who are *incapable of self-preservation*. This group shall include, but not be limited to, the following:

- Foster care facilities*
- Detoxification facilities*
- Hospitals*
- Nursing homes*
- Psychiatric hospitals*

308.4.1 Occupancy conditions. Buildings of Group I-2 shall be classified as one of the occupancy conditions specified in Section 308.4.1.1 or 308.4.1.2.

308.4.1.1 Condition 1. This occupancy condition shall include facilities that provide nursing and medical care but do not provide emergency care, surgery, obstetrics or in-patient stabilization units for psychiatric or detoxification, including but not limited to nursing homes and foster care facilities.

308.4.1.2 Condition 2. This occupancy condition shall include facilities that provide nursing and medical care and could provide emergency care, surgery, obstetrics or in-patient stabilization units for psychiatric or detoxification, including but not limited to hospitals.

308.4.2 Five or fewer persons receiving medical care. A facility with five or fewer persons receiving medical care shall be classified as Group R-3 or shall comply with the *International Residential Code* provided an *automatic sprinkler system* is installed in accordance with Section 903.3.1.3 or Section P2904 of the *International Residential Code*.

308.5 Institutional Group I-3. Institutional Group I-3 occupancy shall include buildings and structures that are inhabited by more than five persons who are under restraint or security. A Group I-3 facility is occupied by persons who are generally *incapable of self-preservation* due to security measures not

[F] TABLE 307.1(2)
 MAXIMUM ALLOWABLE QUANTITY PER CONTROL AREA OF HAZARDOUS MATERIAL POSING A HEALTH HAZARD^{a, c, f, h, i}

MATERIAL	STORAGE ^b			USE-CLOSED SYSTEMS ^b			USE-OPEN SYSTEMS ^b	
	Solid pounds ^{d, f}	Liquid gallons (pounds) ^{d, f}	Gas cubic feet at NTP (pounds) ^d	Solid pounds ^d	Liquid gallons (pounds) ^{d, f}	Gas cubic feet at NTP (pounds) ^d	Solid pounds ^d	Liquid gallons (pounds) ^d
Corrosives	5,000	500	Gaseous 810 ^{c, f} Liquefied (150)	5,000	500	Gaseous 810 ^c Liquefied (150)	1,000	100
Highly Toxic	10	(10)	Gaseous 20 ^g Liquefied (4) ^g	10	(10)	Gaseous 20 ^g Liquefied (4) ^g	3	(3)
Toxic	500	(500)	Gaseous 810 ^c Liquefied (150) ^c	500	(500)	Gaseous 810 ^c Liquefied (150) ^c	125	(125)

For SI: 1 cubic foot = 0.028 m³, 1 pound = 0.454 kg, 1 gallon = 3.785 L.

- a. For use of control areas, see Section 414.2.
- b. The aggregate quantity in use and storage shall not exceed the quantity listed for storage.
- c. In retail and wholesale sales occupancies, the quantities of medicines, foodstuffs or consumer products, and cosmetics containing not more than 50 percent by volume of water-miscible liquids and with the remainder of the solutions not being flammable, shall not be limited, provided that such materials are packaged in individual containers not exceeding 1.3 gallons.
- d. Maximum allowable quantities shall be increased 100 percent in buildings equipped throughout with an *approved automatic sprinkler system* in accordance with Section 903.3.1.1. Where Note e also applies, the increase for both notes shall be applied accumulatively.
- e. Maximum allowable quantities shall be increased 100 percent where stored in approved storage cabinets, gas cabinets or exhausted enclosures as specified in the *International Fire Code*. Where Note d also applies, the increase for both notes shall be applied accumulatively.
- f. For storage and display quantities in Group M and storage quantities in Group S occupancies complying with Section 414.2.5, see Tables 414.2.5(1) and 414.2.5(2).
- g. Allowed only where stored in approved exhausted gas cabinets or exhausted enclosures as specified in the *International Fire Code*.
- h. Quantities in parenthesis indicate quantity units in parenthesis at the head of each column.
- i. For gallons of liquids, divide the amount in pounds by 10 in accordance with Section 5003.1.2 of the *International Fire Code*.

[F] 307.3.1 Occupancies containing explosives not classified as H-1. The following occupancies containing explosive materials shall be classified as follows:

1. Division 1.3 explosive materials that are used and maintained in a form where either confinement or configuration will not elevate the hazard from a mass fire to mass explosion hazard shall be allowed in H-2 occupancies.
2. Articles, including articles packaged for shipment, that are not regulated as a Division 1.4 explosive under Bureau of Alcohol, Tobacco, Firearms and Explosives regulations, or unpackaged articles used in process operations that do not propagate a detonation or deflagration between articles shall be allowed in H-3 occupancies.

[F] 307.4 High-hazard Group H-2. Buildings and structures containing materials that pose a deflagration hazard or a hazard from accelerated burning shall be classified as Group H-2. Such materials shall include, but not be limited to, the following:

- Class I, II or IIIA flammable or combustible liquids that are used or stored in normally open containers or systems, or in closed containers or systems pressurized at more than 15 pounds per square inch gauge (103.4 kPa).
- Combustible dusts where manufactured, generated or used in such a manner that the concentration and conditions create a fire or explosion hazard based on information prepared in accordance with Section 414.1.3.
- Cryogenic fluids, flammable.
- Flammable gases.
- Organic peroxides, Class I.

Oxidizers, Class 3, that are used or stored in normally open containers or systems, or in closed containers or systems pressurized at more than 15 pounds per square inch gauge (103 kPa).

- Pyrophoric liquids, solids and gases, nondetonable.
- Unstable (reactive) materials, Class 3, nondetonable.
- Water-reactive materials, Class 3.

[F] 307.5 High-hazard Group H-3. Buildings and structures containing materials that readily support combustion or that pose a physical hazard shall be classified as Group H-3. Such materials shall include, but not be limited to, the following:

- Class I, II or IIIA flammable or combustible liquids that are used or stored in normally closed containers or systems pressurized at 15 pounds per square inch gauge (103.4 kPa) or less.
- Combustible fibers, other than densely packed baled cotton, where manufactured, generated or used in such a manner that the concentration and conditions create a fire or explosion hazard based on information prepared in accordance with Section 414.1.3.
- Consumer fireworks, 1.4G (Class C, Common)
- Cryogenic fluids, oxidizing
- Flammable solids
- Organic peroxides, Class II and III
- Oxidizers, Class 2
- Oxidizers, Class 3, that are used or stored in normally closed containers or systems pressurized at 15 pounds per square inch gauge (103 kPa) or less
- Oxidizing gases
- Unstable (reactive) materials, Class 2
- Water-reactive materials, Class 2

310.3 Residential Group R-1. Residential Group R-1 occupancies containing *sleeping units* where the occupants are primarily *transient* in nature, including:

- Boarding houses (transient)* with more than 10 occupants
- Congregate living facilities (transient)* with more than 10 occupants
- Hotels (transient)*
- Motels (transient)*

310.4 Residential Group R-2. Residential Group R-2 occupancies containing *sleeping units* or more than two *dwelling units* where the occupants are primarily permanent in nature, including:

- Apartment houses
- Boarding houses (nontransient)* with more than 16 occupants
- Congregate living facilities (nontransient)* with more than 16 occupants
- Convents
- Dormitories*
- Fraternities and sororities
- Hotels (nontransient)
- Live/work units*
- Monasteries
- Motels (nontransient)
- Vacation timeshare properties

310.5 Residential Group R-3. Residential Group R-3 occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4 or I, including:

- Buildings that do not contain more than two *dwelling units*
- Boarding houses (nontransient)* with 16 or fewer occupants
- Boarding houses (transient)* with 10 or fewer occupants
- Care facilities that provide accommodations for five or fewer persons receiving care
- Congregate living facilities (nontransient)* with 16 or fewer occupants
- Congregate living facilities (transient)* with 10 or fewer occupants
- Lodging houses* with five or fewer *guest rooms*

310.5.1 Care facilities within a dwelling. Care facilities for five or fewer persons receiving care that are within a single-family dwelling are permitted to comply with the *International Residential Code* provided an *automatic sprinkler system* is installed in accordance with Section 903.3.1.3 or Section P2904 of the *International Residential Code*.

310.5.2 Lodging houses. Owner-occupied *lodging houses* with five or fewer *guest rooms* shall be permitted to be constructed in accordance with the *International Residential Code*.

310.6 Residential Group R-4. Residential Group R-4 occupancy shall include buildings, structures or portions thereof for more than five but not more than 16 persons, excluding staff, who reside on a 24-hour basis in a supervised residential environment and receive *custodial care*. Buildings of

Group R-4 shall be classified as one of the occupancy conditions specified in Section 310.6.1 or 310.6.2. The persons receiving care are capable of self-preservation. This group shall include, but not be limited to, the following:

- Alcohol and drug centers
- Assisted living facilities
- Congregate care facilities
- Group homes*
- Halfway houses
- Residential board and care facilities
- Social rehabilitation facilities

Group R-4 occupancies shall meet the requirements for construction as defined for Group R-3, except as otherwise provided for in this code.

310.6.1 Condition 1. This occupancy condition shall include buildings in which all persons receiving custodial care, without any assistance, are capable of responding to an emergency situation to complete building evacuation.

310.6.2 Condition 2. This occupancy condition shall include buildings in which there are any persons receiving custodial care who require limited verbal or physical assistance while responding to an emergency situation to complete building evacuation.

**SECTION 311
STORAGE GROUP S**

311.1 Storage Group S. Storage Group S occupancy includes, among others, the use of a building or structure, or a portion thereof, for storage that is not classified as a hazardous occupancy.

311.1.1 Accessory storage spaces. A room or space used for storage purposes that is less than 100 square feet (9.3 m²) in area and accessory to another occupancy shall be classified as part of that occupancy. The aggregate area of such rooms or spaces shall not exceed the allowable area limits of Section 508.2.

311.2 Moderate-hazard storage, Group S-1. Storage Group S-1 occupancies are buildings occupied for storage uses that are not classified as Group S-2, including, but not limited to, storage of the following:

- Aerosols, Levels 2 and 3
- Aircraft hangar (storage and repair)
- Bags: cloth, burlap and paper
- Bamboos and rattan
- Baskets
- Belting: canvas and leather
- Books and paper in rolls or packs
- Boots and shoes
- Buttons, including cloth covered, pearl or bone
- Cardboard and cardboard boxes
- Clothing, woolen wearing apparel
- Cordage
- Dry boat storage (indoor)
- Furniture
- Furs
- Glues, mucilage, pastes and size

under the occupants' control. This group shall include, but not be limited to, the following:

- Correctional centers
- Detention centers
- Jails
- Prerelease centers
- Prisons
- Reformatories

Buildings of Group I-3 shall be classified as one of the occupancy conditions specified in Sections 308.5.1 through 308.5.5 (see Section 408.1).

308.5.1 Condition 1. This occupancy condition shall include buildings in which free movement is allowed from sleeping areas, and other spaces where access or occupancy is permitted, to the exterior via *means of egress* without restraint. A Condition 1 facility is permitted to be constructed as Group R.

308.5.2 Condition 2. This occupancy condition shall include buildings in which free movement is allowed from sleeping areas and any other occupied *smoke compartment* to one or more other *smoke compartments*. Egress to the exterior is impeded by locked *exits*.

308.5.3 Condition 3. This occupancy condition shall include buildings in which free movement is allowed within individual *smoke compartments*, such as within a residential unit comprised of individual *sleeping units* and group activity spaces, where egress is impeded by remote-controlled release of *means of egress* from such a *smoke compartment* to another *smoke compartment*.

308.5.4 Condition 4. This occupancy condition shall include buildings in which free movement is restricted from an occupied space. Remote-controlled release is provided to permit movement from *sleeping units*, activity spaces and other occupied areas within the *smoke compartment* to other *smoke compartments*.

308.5.5 Condition 5. This occupancy condition shall include buildings in which free movement is restricted from an occupied space. Staff-controlled manual release is provided to permit movement from *sleeping units*, activity spaces and other occupied areas within the *smoke compartment* to other *smoke compartments*.

308.6 Institutional Group I-4, day care facilities. Institutional Group I-4 occupancy shall include buildings and structures occupied by more than five persons of any age who receive *custodial care* for fewer than 24 hours per day by persons other than parents or guardians, relatives by blood, marriage or adoption, and in a place other than the home of the person cared for. This group shall include, but not be limited to, the following:

- Adult day care
- Child day care

308.6.1 Classification as Group E. A child day care facility that provides care for more than five but not more than 100 children 2¹/₂ years or less of age, where the rooms in which the children are cared for are located on a *level of exit discharge* serving such rooms and each of these child

care rooms has an *exit* door directly to the exterior, shall be classified as Group E.

308.6.2 Within a place of religious worship. Rooms and spaces within *places of religious worship* providing such care during religious functions shall be classified as part of the primary occupancy.

308.6.3 ^{FOUR}Five or fewer persons receiving care. A facility having five or fewer persons receiving *custodial care* shall be classified as part of the primary occupancy.

308.6.4 ^{FOUR}Five or fewer persons receiving care in a dwelling unit. A facility such as the above within a *dwelling unit* and having five or fewer persons receiving *custodial care* shall be classified as a Group R-3 occupancy or shall comply with the *International Residential Code*.

SECTION 309 MERCANTILE GROUP M

309.1 Mercantile Group M. Mercantile Group M occupancy includes, among others, the use of a building or structure or a portion thereof for the display and sale of merchandise, and involves stocks of goods, wares or merchandise incidental to such purposes and accessible to the public. Mercantile occupancies shall include, but not be limited to, the following:

- Department stores
- Drug stores
- Markets
- Motor fuel-dispensing facilities
- Retail or wholesale stores
- Sales rooms

309.2 Quantity of hazardous materials. The aggregate quantity of nonflammable solid and nonflammable or non-combustible liquid hazardous materials stored or displayed in a single *control area* of a Group M occupancy shall not exceed the quantities in Table 414.2.5(1).

SECTION 310 RESIDENTIAL GROUP R

310.1 Residential Group R. Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I or when not regulated by the *International Residential Code*.

310.2 Definitions. The following terms are defined in Chapter 2:

- BOARDING HOUSE.
- CONGREGATE LIVING FACILITIES.
- DORMITORY.
- GROUP HOME.
- GUEST ROOM.
- LODGING HOUSE.
- PERSONAL CARE SERVICE.
- TRANSIENT.

DEFINITIONS

ing through the breaches in both sides of the assembly and the materials or devices, or both, installed to resist the spread of fire through the assembly for a prescribed period of time.

[BS] TIE-DOWN (HOLD-DOWN). A device used to resist uplift of the chords of *shear walls*.

[BS] TIE, WALL. Metal connector that connects *wythes* of *masonry* walls together.

[BS] TILE, STRUCTURAL CLAY. A hollow *masonry unit* composed of burned clay, shale, fire clay or mixture thereof, and having parallel *cells*.

[F] TIRES, BULK STORAGE OF. Storage of tires where the area available for storage exceeds 20,000 cubic feet (566 m³).

[A] TOWNHOUSE. A single-family *dwelling unit* constructed in a group of three or more attached units in which each unit extends from the foundation to roof and with open space on at least two sides.

[F] TOXIC. A chemical falling within any of the following categories:

1. A chemical that has a median lethal dose (LD₅₀) of more than 50 milligrams per kilogram, but not more than 500 milligrams per kilogram of body weight when administered orally to albino rats weighing between 200 and 300 grams each.
2. A chemical that has a median lethal dose (LD₅₀) of more than 200 milligrams per kilogram, but not more than 1,000 milligrams per kilogram of body weight when administered by continuous contact for 24 hours (or less if death occurs within 24 hours) with the bare skin of albino rabbits weighing between 2 and 3 kilograms each.
3. A chemical that has a median lethal concentration (LC₅₀) in air of more than 200 parts per million, but not more than 2,000 parts per million by volume of gas or vapor, or more than 2 milligrams per liter but not more than 20 milligrams per liter of mist, fume or dust, when administered by continuous inhalation for 1 hour (or less if death occurs within 1 hour) to albino rats weighing between 200 and 300 grams each.

TRANSIENT. Occupancy of a *dwelling unit* or *sleeping unit* for not more than 30 days.

TRANSIENT AIRCRAFT. Aircraft based at another location and that is at the transient location for not more than 90 days.

[BS] TREATED WOOD. Wood products that are conditioned to enhance fire-retardant or preservative properties.

Fire-retardant-treated wood. Wood products that, when impregnated with chemicals by a pressure process or other means during manufacture, exhibit reduced surface-burning characteristics and resist propagation of fire.

Preservative-treated wood. Wood products that, conditioned with chemicals by a pressure process or other means, exhibit reduced susceptibility to damage by fungi, insects or marine borers.

TRIM. Picture molds, chair rails, baseboards, *handrails*, door and window frames and similar decorative or protective materials used in fixed applications.

[F] TROUBLE SIGNAL. A signal initiated by the *fire alarm system* or device indicative of a fault in a monitored circuit or component.

[BS] TUBULAR DAYLIGHTING DEVICE (TDD). A non-operable *fenestration* unit primarily designed to transmit daylight from a roof surface to an interior ceiling via a tubular conduit. The basic unit consists of an exterior glazed weathering surface, a light-transmitting tube with a reflective interior surface, and an interior-sealing device such as a translucent ceiling panel. The unit can be factory assembled, or field-assembled from a manufactured kit.

24-HOUR BASIS. See “24-hour basis” located preceding “AAC masonry.”

TYPE A UNIT. A *dwelling unit* or *sleeping unit* designed and constructed for accessibility in accordance with this code and the provisions for *Type A units* in ICC A117.1.

TYPE B UNIT. A *dwelling unit* or *sleeping unit* designed and constructed for accessibility in accordance with this code and the provisions for *Type B units* in ICC A117.1, consistent with the design and construction requirements of the federal Fair Housing Act.

[BS] UNDERLAYMENT. One or more layers of felt, sheathing paper, nonbituminous saturated felt or other *approved* material over which a steep-slope *roof covering* is applied.

UNIT SKYLIGHT. See “Skylight, unit.”

[F] UNSTABLE (REACTIVE) MATERIAL. A material, other than an explosive, which in the pure state or as commercially produced, will vigorously polymerize, decompose, condense or become self-reactive and undergo other violent chemical changes, including *explosion*, when exposed to heat, friction or shock, or in the absence of an inhibitor, or in the presence of contaminants, or in contact with *incompatible materials*. Unstable (reactive) materials are subdivided as follows:

Class 4. Materials that in themselves are readily capable of *detonation* or explosive decomposition or explosive reaction at *normal temperatures and pressures*. This class includes materials that are sensitive to mechanical or localized thermal shock at *normal temperatures and pressures*.

Class 3. Materials that in themselves are capable of *detonation* or of explosive decomposition or explosive reaction but which require a strong initiating source or which must be heated under confinement before initiation. This class includes materials that are sensitive to thermal or mechanical shock at elevated temperatures and pressures.

Class 2. Materials that in themselves are normally unstable and readily undergo violent chemical change but do not detonate. This class includes materials that can undergo chemical change with rapid release of energy at *normal temperatures and pressures*, and that can undergo

- (d) The words "Ambulatory Surgical Centers with five or more operating rooms" are added to the list.
- (19) In IBC, Section 308.4.1, the word "five" is deleted and replaced with the word "three" in both places.
- (20) In IBC, Section 308.6, the word "five" is deleted and replaced with the word "four".
- (21) In IBC, Section 308.6.1, the following changes are made:
 - (a) The word "five" is deleted and replaced with the word "four".
 - (b) The words "2-1/2 years or less of age" are deleted and replaced with "under the age of two".
 - (c) The following sentence is added at the end: "See Section 425 for special requirements for Day Care."
- (22) In IBC, Sections 308.6.3 and 308.6.4, the word "five" is deleted and replaced with the word "four" in both places and the following sentence is added at the end: "See Section 425 for special requirements for Day Care."
- (23) In IBC, Section 310.5, the words "and single family dwellings complying with the IRC" are added after "Residential occupancies".
- (24) In IBC, Section 310.5.1, the words "other than Child Care" are inserted after the word "dwelling" in the first sentence and the following sentence is added at the end: "See Section 425 for special requirements for Child Day Care."
- (25) A new IBC Section 310.5.2 is added as follows: "310.5.2 Child Care. Areas used for child care purposes may be located in a residential dwelling unit under all of the following conditions and Section 425:
 - 1. Compliance with Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board.
 - 2. Use is approved by the Utah Department of Health, as enacted under the authority of the Utah Code, Title 26, Chapter 39, Utah Child Care Licensing Act, and in any of the following categories:
 - a. Utah Administrative Code, R430-50, Residential Certificate Child Care.
 - b. Utah Administrative Code, R430-90, Licensed Family Child Care.
 - 3. Compliance with all zoning regulations of the local regulator."
- (26) In IBC, Section 310.6, the words "(see Section 308.2.1)" are added after "assisted living facilities".

Amended by Chapter 297, 2013 General Session

Effective 7/1/2016

15A-3-102 Amendments to Chapters 1 through 3 of IBC.

- (1) IBC, Section 106, is deleted.
- (2) In IBC, Section 110, a new section is added as follows: " 110.3.5.1, Weather-resistant exterior wall envelope. An inspection shall be made of the weather-resistant exterior wall envelope as required by Section 1403.2, and flashing as required by Section 1405.4 to prevent water from entering the weather-resistive barrier."
- (3) IBC, Section 115.1, is deleted and replaced with the following: "115.1 Authority. Whenever the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or other pertinent laws or ordinances or is dangerous or unsafe, the building official is authorized to stop work."
- (4) In IBC, Section 202, the following definition is added for Ambulatory Surgical Center:
"AMBULATORY SURGICAL CENTER. A building or portion of a building licensed by the Utah

- Department of Health where procedures are performed that may render patients incapable of self preservation where care is less than 24 hours. See Utah Administrative Code R432-13."
- (5) In IBC, Section 202, the definition for Foster Care Facilities is modified by changing the word "Foster" to "Child."
 - (6) In IBC, Section 202, the definition for "[F]Record Drawings" is modified by deleting the words "a fire alarm system" and replacing them with "any fire protection system".
 - (7) In IBC, Section 202, the following definition is added for Residential Treatment/Support Assisted Living Facility: "RESIDENTIAL TREATMENT/SUPPORT ASSISTED LIVING FACILITY. See Section 308.1.2."
 - (8) In IBC, Section 202, the following definition is added for Type I Assisted Living Facility: "TYPE I ASSISTED LIVING FACILITY. See Section 308.1.2."
 - (9) In IBC, Section 202, the following definition is added for Type II Assisted Living Facility: "TYPE II ASSISTED LIVING FACILITY. See Section 308.1.2."
 - (10) In IBC, Section 305.2, the words "child care centers," are inserted after the word "supervision," and the following sentence is added at the end of the paragraph: "See Section 425 for special requirements for Day Care."
 - (11) In IBC, Section 305.2.2 and 305.2.3, the word "five" is deleted and replaced with the word "four" in both places.
 - (12) A new IBC Section 305.2.4 is added as follows: "305.2.4 Child Day Care -- Residential Certificate or a Family License. Areas used for child day care purposes with a Residential Certificate R430-50 or a Family License, as defined in Utah Administrative Code, R430-90, Licensed Family Child Care, may be located in a Group R-2 or R-3 occupancy as provided in Section 310.5 or shall comply with the International Residential Code in accordance with Section R101.2."
 - (13) A new IBC Section 305.2.5 is added as follows: "305.2.5 Child Care Centers. Areas used for Hourly Child Care Centers, as defined in Utah Administrative Code, R430-60, Child Care Center as defined in Utah Administrative Code, R430-100, or Out of School Time Programs, as defined in Utah Administrative Code, R430-70, may be classified as accessory occupancies."
 - (14) In IBC, Table 307.1(1), footnote "d" is added to the row for Consumer fireworks in the column titled STORAGE - Solid Pounds (cubic feet).
 - (15) In IBC, Section 308.2, the word "FOSTER" is deleted and replaced with "CHILD."
 - (16) A new IBC Section 308.2.1 is added as follows: "308.2.1 Assisted living facilities and related occupancies. The following words and terms shall, for the purposes of this section and as used elsewhere in this code, have the meanings shown herein.
 TYPE I ASSISTED LIVING FACILITY. A residential facility licensed by the Utah Department of Health that provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the assistance of another person.
 Occupancies. Limited capacity, type I assisted living facilities with two to five residents shall be classified as R-3 occupancies. Small, type I assisted living facilities with six to sixteen residents shall be classified as R-4 occupancies. Large, type I assisted living facilities with over sixteen residents shall be classified as I-1 occupancies.
 TYPE II ASSISTED LIVING FACILITY. A residential facility licensed by the Utah Department of Health that provides an array of coordinated supportive personal and health care services to residents who meet the definition of semi-independent.
 Semi-Independent. A person who is:
 A. Physically disabled but able to direct his or her own care; or

B. Cognitively impaired or physically disabled but able to evacuate from the facility with the physical assistance of one person.

Occupancies. Limited capacity, type II assisted living facilities with two to five residents shall be classified as R-4 occupancies. Small, type II assisted living facilities with six to sixteen residents shall be classified as I-1 occupancies. Large, type II assisted living facilities with over sixteen residents shall be classified as I-2 occupancies.

RESIDENTIAL TREATMENT/SUPPORT ASSISTED LIVING FACILITY. A residential treatment/support assisted living facility which creates a group living environment for four or more residents licensed by the Utah Department of Human Services, and provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the physical assistance of another person."

- (17) In IBC, Section 308.3, the words "(see Section 308.2.1)" are added after the words "assisted living facilities."
- (18) In IBC, Section 308.3.4, all of the words after the first International Residential Code are deleted.
- (19) In IBC, Section 308.4, the following changes are made:
- (a) The words "five persons" are deleted and replaced with the words "three persons."
 - (b) The words "foster care facilities" are deleted and replaced with "child care facilities."
 - (c) The words "(both intermediate care facilities and skilled nursing facilities)" are added after "nursing homes."
- (20) In IBC, Section 308.4.2, the word "five" is deleted and replaced with the word "three" in both places.
- (21) In IBC, Section 308.6, the word "five" is deleted and replaced with the word "four."
- (22) In IBC, Section 308.6.1, the following changes are made:
- (a) The word "five" is deleted and replaced with the word "four."
 - (b) The words "2-1/2 years or less of age" are deleted and replaced with "under the age of two."
 - (c) The following sentence is added at the end: "See Section 427 for special requirements for Day Care."
- (23) In IBC, Sections 308.6.3 and 308.6.4, the word "five" is deleted and replaced with the word "four" in both places and the following sentence is added at the end: "See Section 427 for special requirements for Day Care."
- (24) In IBC, Section 310.5, the words "and single family dwellings complying with the IRC" are added after "Residential occupancies."
- (25) In IBC, Section 310.5.1, the words "other than Child Care" are inserted after the word "dwelling" in the first sentence and the following sentence is added at the end: "See Section 427 for special requirements for Child Day Care."
- (26) A new IBC Section 310.5.3 is added as follows: " 310.5.3 Child Care. Areas used for child care purposes may be located in a residential dwelling unit under all of the following conditions and Section 427:
- 1. Compliance with Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board.
 - 2. Use is approved by the Utah Department of Health, as enacted under the authority of the Utah Code, Title 26, Chapter 39, Utah Child Care Licensing Act, and in any of the following categories:
 - a. Utah Administrative Code, R430-50, Residential Certificate Child Care.
 - b. Utah Administrative Code, R430-90, Licensed Family Child Care.
 - 3. Compliance with all zoning regulations of the local regulator."

LEVELS OF CARE

Types of Facilities/Agencies

Home Health
Assisted Living Facility Type I
Assisted Living Facility Type II
Small Health Care Facility - Type N
Intermediate Care Facility/Nursing Facility
Skilled Nursing Facility
Hospital
Hospice

Levels of Care/Services to be provided

Home Health

Services must be ordered by a Doctor.
Services may include nurse, home health aide, therapies (OT, Speech, PT).
Services are provided in the patients place of residence.
Services may include assistance with all or some of ADLs
Services may be long or short term.
Patient may be dependent, semi-independent, and have acute or chronic health status.
Services are on a intermittent basis, not 24 hours a day
Patient participates in a Plan of Care developed by a RN.
Personal care services (ADLs) provided according to R432-700-23, which may include dressing, eating, grooming, bathing, toileting, ambulation, transferring, and self-administration of medications.

Assisted Living Facility Type I

Resident lives in a licensed facility that provides safe and clean living accommodations and three meals a day.
Resident may require minimal assistance with ADLs, including significant assistance with up to three ADL's.
Resident must be able to evacuate the facility under his own power (be mobile).
Resident must have stable health and free from any communicable disease.
Resident may receive assistance with medications or have medications administered by a nurse.
Resident may receive home health or hospice services through individual contract with those agencies.
Resident receives 24-hour general monitoring, 7 days a week.
Resident may receive general nursing care according to facility policy.
Resident participates in developing a service plan

Assisted Living Facility Type II

Resident lives in a licensed facility, permits aging in place.
Resident may receive full assistance with ADLs.

Assisted Living Occupancy Classification

Size (# of residents)	Assisted Living Type I	Assisted Living Type II
Limited Capacity (2 to 5)	IBC R-3 UAC R156-56-801(9)	IBC R-4 UAC R156-56-801(10)
Small (6 to 16)	IBC R-4 UAC R156-56-801(9)	IBC I-1 UAC R156-56-801(10)
Large (≥ 17)	IBC I-1 UAC R156-56-801(9)	IBC I-2 UAC R156-56-801(10)

Other information:

Assisted Living Residential Treatment (Type RT) is licensed by Human Services, not by the Department of Health.

Fire sprinklers are required for all 'I' occupancies and for R-4 occupancies more than 4,500 SF

Non-fire-rated construction is permitted for all but I-2 occupancies per IBC table 503.

AL-I residents must be capable of self preservation. They must be capable of recognizing a hazard and making continuous, unassisted progress towards the exit.

AL-II residents are allowed the assistance of one person to evacuate.

From Bill Bonn @Health Dept.

ICR-156-56-801(9)

RESIDENTIAL TREATMENT/SUPPORT ASSISTED LIVING FACILITY.

A residential treatment/support assisted living facility which creates a group living environment for four or more residents licensed by the Utah Department of Human Services, and provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the physical assistance of another person.

(9) Section 308.2 is deleted and replaced with the following:

308.2 Group I-1. This occupancy shall include buildings, structures, or parts thereof housing more than 16 persons, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment that provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This group shall include, but not be limited to, the following: residential board and care facilities, type I assisted living facilities, residential treatment/support assisted living facility, half-way houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug centers and convalescent facilities. A facility such as the above with five or fewer persons shall be classified as a Group R-3 or shall comply with the International Residential Code in accordance with Section 101.2. A facility such as above, housing at least six and not more than 16 persons, shall be classified as a Group R-4.

EXHIBIT B

DAN JONES SURVEY RESULTS

Population size: ~4,500

Sample size: n = 330

Margin of Error: + / - 4.99%

How many individuals live in your residence?

Average = 3.02

How many vehicles are normally parked at your residence during the day?

Average = 1.96

How many vehicles are normally parked at your residence at night?

Average = 2.35

How many Wasatch County solid waste containers are left out for pick up each week?

Average = 1.21

Is your house in Midway City your primary residence?

80% said their residence in Midway WAS their primary residence.

EXHIBIT C

ENGINEERING ANALYSIS

Most residential homes have ¾ inch meters.

This is sufficient to provide a maximum of 30 gallons per minute to the home.

The attached chart establishes approximate per minute uses for residential fixtures.

- 1. Shower head – 5 gallons per minute
- 2. Toilet – 2 gallons per minute
- 3. Washing Machine – 2 gallons per minute
- 4. Sink – 2 gallons per minute
- 5. Dishwasher – 2 gallons per minute

A ¾ inch meter is sufficient for normal residential uses.

Families larger than 8 persons begin to put stress on the water capacity of their system.

For example, in the morning if four people are taking a shower, two uses the toilet, and the washing machine and dishwasher are running, your flow would be 28 gallons per minute. Add in using a sink for breakfast and system capacity has been maximized.

Having 10 to 16 people in one residential home raises questions as to sufficient system capacity.

Anything over 16 persons would require an upgrade to a 1 ½ inch meter, and would cross over into a commercial use.

CERTIFICATION

I certify as a licensed engineer that the above information is accurate and in accordance with generally accepted standards within the engineering industry.

Wes Johnson
Licensed Engineer

STATE OF UTAH)
 :
COUNTY OF WASATCH)

Subscribed and sworn to before me by the above named, this _____ day of _____, 2018.

Notary Public

The Granary, Fixture Units

FIXTURE TYPE (IPC Table 709.1)	OLD COUNT	Unit Value	NEW COUNT	NET TOTAL
Automatic cloths washers - Commercial		3	2	6
Automatic cloths washers - Residential		2		-
Bathroom group - (<=1.6 gpf)		5		-
Bathroom group - (>1.6 gpf)		6	6	36
Bathtub - w/wo shower or whirlpool		2		-
Bidet		1		-
Combination sink and tray		2		-
Dental lavatory		1		-
Dental unit or cuspidor		1		-
Dishwashing machine - Domestic		2		-
Drinking fountain		0.5		-
Emergency floor drain		0		-
Floor drain / Janitor Sink		2		-
* Deck/Area Drain		1		-
Kitchen sink - Domestic		2		-
Kitchen sink - Domestic w/grinder or dishwasher		2		-
Laundry tray		2		-
Lavatory - (Restroom Sink)		1		-
Shower		2		-
Sink		2		-
Urinal		4		-
Urinal - (<=1.0 gpf)		2		-
Wash sink - (circular or multiple) each set of faucets		2		-
Water closet - Flushometer tank, Public or Private		4		-
Water closet - (<=1.6 gpf) Private		3		-
Water closet - (>1.6 gpf) Private		4		-
Water closet - (<=1.6 gpf) Public		4		-
Water closet - (>1.6 gpf) Public		6		-
	0	TOTAL =	8	42

Galons per Fixture Unit: 15
 Total Daily Flow, (Gallons per Day) 630
 Flow Per ERU, (Gallons per Day) 400
 Commercial ERU's 1.58

Residential Treatment Facilities
Planning Commission Motion

Midway City is proposing a Code Text Amendment of Midway City's Land Use Code of Title 16 regarding Residential Treatment Facilities, Residential Facilities for Elderly Persons, Rest Homes, Nursing, and Convalescent Facilities. The City would like to review the current code and potentially amend the regulations for these facilities.

Motion: Commissioner Payne: I move that we approve and make a recommendation to City Council, item #4, propose a Code Text Amendment that Midway City's Land Use Code of Title 16 regarding Residential Treatment Facilities, Residential Facilities for Elderly Persons, Rest Homes, Nursing, and Convalescent Facilities. We accept staff findings. I suggest one change, that the definition of the single housekeeping unit which currently reads as eight (8) we change to six (6).

Seconded: Commissioner Waldrip

Chairman Kohler: Any discussion on the motion?

Commissioners, Nicholas, Bouwhuis and Ream expressed that limiting to six (6) is too restrictive.

Chairman Kohler: All in favor.

Ayes: Commissioners Streeter, Waldrip, and Payne

Nays: Nicholas, Ream and Bouwhuis

Tie breaking vote by Chairman Kohler: Aye

Motion: Passed