

**HARRISVILLE CITY, UTAH  
ORDINANCE No. 324**

**AN ORDINANCE OF THE HARRISVILLE CITY COUNCIL AMENDING  
THE HARRISVILLE CITY ZONING ORDINANCE AND PROVIDING  
PROVISIONS AND REQUIREMENTS FOR RESIDENTIAL FACILITIES  
FOR ELDERLY PERSONS.**

WHEREAS, Harrisville City maintains a Zoning Ordinance identifying the requirements and regulations applicable to all land uses allowed within the City; and

WHEREAS, the Harrisville City Zoning Ordinance is utilized by Harrisville City to implement the Harrisville City General Plan; and

WHEREAS, to effectively implement the Harrisville City General Plan, the City Council may amend the Harrisville City Zoning Ordinance, from time to time, after the receipt of a Planning Commission recommendation by following the requirements of §10-9 *et. seq.* Utah Code Annotated (U.C.A.), 1953 as amended, to effectively implement the Harrisville City General Plan; and

WHEREAS, to effectively implement the Harrisville City General Plan the City has considered the need to amend the Harrisville City Zoning Ordinance and identify and provide development requirements for Residential Facilities for Elderly Persons; and

WHEREAS, the Harrisville City Planning Commission has conducted a Public Hearing to receive comment and consider amending the Harrisville City Zoning Ordinance to provide development requirements for Residential Facilities for Elderly Persons ; and

WHEREAS, the Harrisville City Planning Commission, after thorough and deliberate consideration has forwarded a recommendation to the City Council for an amendment to the Harrisville City Zoning Ordinance, providing requirements for Residential Facilities for Elderly Persons, consistent with the requirements of §10-9-501, §10-9-502 and §10-9-504 Utah Code Annotated, 1953, as amended; and

WHEREAS, the Harrisville City Council has now held a public hearing to receive comment and input on the recommendation of the Planning Commission for requirements for Residential Facilities for Elderly Persons; and

WHEREAS, following all necessary public hearings and after thorough and deliberate consideration, the Harrisville City Council has determined that it is necessary and desirable that the Harrisville City Zoning Ordinance now be amended.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HARRISVILLE, STATE OF UTAH AS FOLLOWS:

Section 1. The Harrisville City Zoning Ordinance be amended by revising Chapter 25 and providing requirements and provisions for Residential Facilities for Elderly Persons, as identified in Exhibit 1, attached hereto.

Section 2. This ordinance take effect upon its passage by the City Council and subsequent publication and posting as required by law.

IN WITNESS THEREOF, this Ordinance is passed and adopted by the Harrisville City Council this 13<sup>th</sup> day of October 1998.

HARRISVILLE CITY COUNCIL:

Voting For:

Voting Against:

Councilman Lex Patterson

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Councilman Scott Higgs

\_\_\_\_\_

Councilman Marshal Garrett

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Councilman Merrill Harris

\_\_\_\_\_

Abstaining:

\_\_\_\_\_

*A. W. [Signature]*

ATTEST:

*Brenda K Ouderirk*

Brenda Ouderirk, Harrisville City Clerk/Recorder

SEAL:



APPROVED AS TO FORM:

*[Signature]*

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Attorney for Harrisville City, Utah

**ORDINANCE No. 324  
EXHIBIT 1**

**Section 25-3. Residential Facilities for Elderly Persons Proposed to Be Located Within Zones Allowing Exclusively Single-Family Dwellings.**

A Residential Facility for Elderly Persons, proposed within all zoning districts of Harrisville City zoned to permit exclusively single family dwellings, may be allowed by the Planning Commission by complying with all the requirements for a Conditional Use permit and all requirements of this Section.

1. A residential facility for elderly persons may not operate as a business. A residential facility for elderly persons may not be considered a business because a fee is charged for food or for actual and necessary costs of operation and maintenance of the facility.
2. A residential facility for elderly persons shall:
  - (i) be owned by one of the residents or by an immediate family member of one of the residents or be a facility for which the title has been placed in trust for a resident;
  - (ii) be consistent with existing zoning of the desired location, including zoning district requirements for minimum area, yards, off-street parking. The type of residential dwelling must be a single family dwelling.
  - (iii) be occupied on a 24-hour-per-day basis by eight or fewer elderly persons in a family-type arrangement.

In considering the Conditional Use request the Planning Commission shall only consider or require the following conditions, as allowed by §10-9-502, Utah Code Annotated, 1953, as amended;

- (a) the facility meet all applicable building, safety, zoning, and health ordinances applicable to similar dwellings;
- (b) adequate off-street parking space be provided;
- (c) the facility be capable of use as a residential facility for elderly persons without structural or landscaping alterations that would change the structure's residential character;

(d) no residential facility for elderly persons be established within three-quarters mile of another residential facility for elderly persons or residential facility for persons with a disability, as defined by Section 10-9-605, Utah Code Annotated, 1953, as amended;;

(e) no person being treated for alcoholism or drug abuse be placed in a residential facility for elderly persons; and

(f) placement in a residential facility for elderly persons be on a strictly voluntary basis and not a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional facility.

The use granted and permitted by this section is nontransferable and terminates if the structure is devoted to a use other than as a residential facility for elderly persons or if the structure fails to comply with applicable health, safety, and building codes.

**Section 25-4. Residential Facilities for Elderly Persons Proposed to Be Located Within Zones Allowing Other Residential Type Dwellings, Other than Single-Family Dwellings.**

A Residential Facility for Elderly Persons, proposed within all zoning districts of Harrisville City zoned to permit other residential dwellings, other than single family dwellings, shall be considered a permitted use by complying with all requirements of this Section. The following requirements shall only be considered by the City in considering the application for a Residential facility for Elderly Persons. If it is determined that the following requirements are met the City shall grant any permits required to establish a Residential Facility for Elderly Persons.

1. A residential facility for elderly persons may not operate as a business. A residential facility for elderly persons may not be considered a business because a fee is charged for food or for actual and necessary costs of operation and maintenance of the facility.
2. A residential facility for elderly persons shall:
  - (i) be owned by one of the residents or by an immediate family member of one of the residents or be a facility for which the title has been placed in trust for a resident;
  - (ii) be consistent with existing zoning of the desired location, including zoning district requirements for minimum area, yards, off-street parking. The type of residential dwelling must also

comply with the density requirements of the zoning district in which it is located, or proposed, and the residential dwellings allowed in the zoning district.

(iii) be occupied on a 24-hour-per-day basis by eight or fewer elderly persons in a family-type arrangement.

The Residential Facility shall:

- (a) meet all applicable building, safety, zoning, and health ordinances applicable to similar dwellings;
- (b) adequate off-street parking space be provided;
- (c) the facility be capable of use as a residential facility for elderly persons without structural or landscaping alterations that would change the structure's residential character;
- (d) no residential facility for elderly persons be established within three-quarters mile of another residential facility for elderly persons or residential facility for persons with a disability, as defined by Section 10-9-605, Utah Code Annotated, 1953, as amended;
- (e) no person being treated for alcoholism or drug abuse be placed in a residential facility for elderly persons; and
- (f) placement in a residential facility for elderly persons be on a strictly voluntary basis and not a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional facility.

The use granted and permitted by this section is nontransferable and terminates if the structure is devoted to a use other than as a residential facility for elderly persons or if the structure fails to comply with applicable health, safety, and building codes.

**Section 25-5. Discrimination Prohibited.**

All applications for a permit to establish a residential facility for elderly persons shall be considered against the review and approval criteria, as provided by Section 25-3 and Section 25-4 and shall not be based on the age of the facility's residents.