

Effective 5/3/2023

Part 5
Winter Response Plan Requirements

35A-16-501 Definitions.

As used in this part:

- (1) "Applicable county" means a county of the first or second class.
- (2) "Applicable local homeless council" means the local homeless council that is responsible for coordinating homeless response within an applicable county.
- (3) "Capacity limit" means a limit as to the number of individuals that a homeless shelter may provide overnight shelter to under a conditional use permit.
- (4) "Chief executive officer" means the same as that term is defined in Section 11-51-102.
- (5) "Community location" means the same as that term is defined in Section 10-8-41.6.
- (6) "Conference of mayors" means an association consisting of the mayor of each municipality located within a county.
- (7) "Council of governments" means the same as that term is defined in Section 72-2-117.5.
- (8) "County winter response task force" or "task force" means a task force described in Section 35A-16-501.5.
- (9) "Homeless shelter" means a facility that:
 - (a) provides temporary shelter to individuals experiencing homelessness;
 - (b) operates year-round; and
 - (c) is not subject to restrictions that limit the hours, days, weeks, or months of operation.
- (10) "Municipality" means a city or town.
- (11) "State facility" means the same as that term is defined in Section 63A-5b-1001.
- (12) "Subsequent winter response period" means the winter response period that begins on October 15 of the year in which a county winter response task force is required to submit a winter response plan to the office under Section 35A-16-502.
- (13) "Targeted winter response bed count" means the targeted bed count number for an applicable county during the winter response period, as determined jointly by the applicable local homeless council and the office.
- (14) "Temporary winter response shelter" means a facility that:
 - (a) provides temporary emergency shelter to individuals experiencing homelessness during a winter response period; and
 - (b) does not operate year-round.
- (15) "Winter response period" means the period beginning October 15 and ending April 30 of the following year.
- (16) "Winter response plan" means the plan described in Section 35A-16-502.

Amended by Chapter 438, 2024 General Session

35A-16-501.5 County winter response task force.

- (1) Subject to the requirements of Section 35A-16-502, the council of governments of each applicable county shall annually convene a county winter response task force.
- (2)
 - (a) The task force for Salt Lake County shall consist of the following 14 voting members:
 - (i) the chief executive officer of Salt Lake County, or the chief executive officer's designee;

- (ii) the chief executive officer, or the chief executive officer's designee, of each of the following 11 municipalities:
 - (A) Draper;
 - (B) Midvale;
 - (C) Millcreek;
 - (D) Murray;
 - (E) Salt Lake City;
 - (F) Sandy;
 - (G) South Jordan;
 - (H) South Salt Lake;
 - (I) Taylorsville;
 - (J) West Jordan; and
 - (K) West Valley City; and
- (iii) the chief executive officer, or the chief executive officer's designee, of any two municipalities located in Salt Lake County that are not described in Subsection (2)(a)(ii), appointed by the conference of mayors of Salt Lake County.
- (b) A task force for an applicable county not described in Subsection (2)(a) shall consist of the following voting members:
 - (i) the chief executive officer of the applicable county, or the chief executive officer's designee; and
 - (ii) the chief executive officer, or the chief executive officer's designee, of a number of municipalities located in the applicable county that the conference of mayors of the applicable county considers to be appropriate, appointed by the conference of mayors of the applicable county.
- (3) In addition to the voting members required in Subsection (2), a task force shall include the following nonvoting members:
 - (a) the coordinator, or the coordinator's designee;
 - (b) one representative of the Utah League of Cities and Towns, appointed by the Utah League of Cities and Towns, or the representative's designee;
 - (c) one representative of the Utah Association of Counties, appointed by the Utah Association of Counties, or the representative's designee;
 - (d) two individuals experiencing homelessness or having previously experienced homelessness, appointed by the applicable local homeless council;
 - (e) three representatives of the applicable local homeless council, appointed by the applicable local homeless council, or the representative's designee; and
 - (f) any other individual appointed by the council of governments of the applicable county.
- (4)
 - (a) Any vacancy on a task force shall be filled in the same manner as the appointment of the member whose vacancy is being filled.
 - (b) Each member of a task force shall serve until a successor is appointed.
- (5) A majority of the voting members of a task force constitutes a quorum and may act on behalf of the task force.
- (6) A task force shall:
 - (a) select officers from the task force's members as the task force finds necessary; and
 - (b) meet as necessary to effectively conduct the task force's business and duties as prescribed by statute.

- (7) A task force may establish one or more working groups as is deemed appropriate to assist on specific issues related to the task force's duties, including a working group for site selection of temporary winter response shelters.
- (8)
 - (a) A task force member may not receive compensation or benefits for the task force member's service.
 - (b) A task force member may receive per diem and travel expenses in accordance with:
 - (i) Section 63A-3-106;
 - (ii) Section 63A-3-107; and
 - (iii) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.
- (9) The applicable county for which a task force is convened shall provide administrative support to the task force.
- (10) Meetings of the task force are not subject to Title 52, Chapter 4, Open and Public Meetings Act.

Amended by Chapter 338, 2024 General Session

35A-16-502 Winter response plan required -- Contents -- Review -- Consequences after determination of noncompliance.

- (1)
 - (a) The task force for an applicable county that is a county of the first class shall annually prepare and submit to the office a winter response plan on or before August 1 in calendar years 2023, 2024, and 2025.
 - (b) Except as provided in Subsection (3), the task force for an applicable county not described in Subsection (1)(a) shall annually prepare and submit to the office a winter response plan on or before August 1 in calendar years 2024 and 2025.
- (2) The winter response plan shall:
 - (a) provide assurances to the office that the applicable county will meet the applicable county's targeted winter response plan or other accommodations during the subsequent winter response period by establishing plans for the requisite need during the subsequent winter response period;
 - (b) ensure that any temporary winter response shelter planned for operation within the applicable county will meet all local zoning requirements;
 - (c) include a detailed transportation plan, budget, revenue sources, including in-kind sources, and any other component specified by the office under Subsection (3) as a requirement for the applicable county to achieve compliance with this section;
 - (d) include a detailed county plan for a code blue event as defined in Section 35A-16-701, including the number and location of available beds for individuals experiencing homelessness for the duration of the code blue event; and
 - (e) be approved by the chief executive officer of:
 - (i) any municipality located within the applicable county in which a temporary winter response shelter is planned for operation during the subsequent winter response period; and
 - (ii) the applicable county, if a temporary winter response shelter is planned for operation within an unincorporated area of the county.
- (3) The requirements of Subsection (1)(b) do not apply to an applicable county if:
 - (a) on or before August 1, 2024, the applicable county submits to the office:

- (i) documentation demonstrating that the applicable county is developing a plan to address the needs of individuals experiencing homelessness within the county throughout the entire year, as opposed to only during the winter response period; and
 - (ii) a county plan for a code blue event as described in Subsection (2)(d);
 - (b) on or before August 1, 2025, the applicable county submits to the office the year-round plan developed under Subsection (3)(a)(i); and
 - (c) the office determines that the applicable county's year-round plan meets the requirements of a winter response plan as described in Subsection (2) for the entire year.
- (4) To assist a task force in preparing a winter response plan, by no later than March 30 of the year in which the winter response plan is due, the applicable local homeless council, in coordination with the office, shall provide the following information to the task force:
- (a) the targeted winter response bed count;
 - (b) the requirements for the plan described in Subsection (2)(d);
 - (c) the availability of funds that can be used to mitigate the winter response plan; and
 - (d) any component required for the winter response plan to achieve compliance that is not described in Subsection (2).
- (5) In preparing the winter response plan, the task force shall coordinate with:
- (a) the office;
 - (b) the applicable local homeless council;
 - (c) for Salt Lake County, the conference of mayors for Salt Lake County; and
 - (d) for an applicable county not described in Subsection (5)(c), the council of governments for the applicable county.
- (6) In conducting site selection for a temporary winter response shelter under a winter response plan, the task force shall prioritize:
- (a) a site located more than one mile from any homeless shelter;
 - (b) a site located more than one mile from any permanent supportive housing, as verified by the office; and
 - (c) a site located in a municipality or unincorporated area of the applicable county that does not have a homeless shelter.
- (7)
- (a) On or before August 15 of the year in which a winter response plan is submitted, the office shall:
 - (i) conduct a review of the winter response plan for compliance with this section; and
 - (ii) send a written notice of the office's determination regarding compliance to:
 - (A) the task force for the applicable county;
 - (B) the council of governments for the applicable county;
 - (C) the applicable local homeless council; and
 - (D) the legislative body of each municipality located within the applicable county.
 - (b) For purposes of Section 35A-16-502.5, an applicable county is in noncompliance with this section if:
 - (i) the applicable county's task force fails to submit a timely winter response plan under this section; or
 - (ii) the office determines that the winter response plan prepared for the applicable county does not comply with this section.
- (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules establishing requirements for an applicable county's compliance with this section.

Amended by Chapter 204, 2024 General Session

Amended by Chapter 338, 2024 General Session

35A-16-502.5 County noncompliance with winter response plan requirements.

- (1) This section applies to an applicable county that is in noncompliance with Section 35A-16-502.
- (2) Subject to Subsection (3), the following provisions apply within the applicable county during the subsequent winter response period:
 - (a) the office may authorize:
 - (i) the expansion of a homeless shelter's capacity limit by up to 25%; and
 - (ii) the operation of one or more temporary winter response shelters; and
 - (b) the applicable county, and any municipality located within the applicable county, may not enact or enforce an ordinance or otherwise take any action that limits or restricts the office's authority under Subsection (2)(a).
- (3)
 - (a) The office may not authorize the expansion of a homeless shelter's capacity under Subsection (2)(a) unless:
 - (i) the homeless shelter is in compliance with the applicable building code and fire code; and
 - (ii) the fire code official approves the layout of the homeless shelter.
 - (b) In authorizing the operation of a temporary winter response shelter under Subsection (2)(a), the office:
 - (i) may not authorize the siting of a temporary winter response shelter within a three-fourths mile radius of any homeless shelter; and
 - (ii) shall consider:
 - (A) a site located more than 500 feet from any community location;
 - (B) a site located in a municipality in which a homeless shelter is not located;
 - (C) the locations of permanent supportive housing;
 - (D) authorizing the operation of a temporary winter response shelter before authorizing the expansion of a homeless shelter's capacity limit;
 - (E) the potential impacts of a temporary winter response shelter on community locations; and
 - (F) any recommendations included in the applicable county's winter response plan, regardless of the office's determination of noncompliance.
- (4) A temporary winter response shelter authorized by the office under this section may not be converted into a permanent facility after April 15, 2026, without the consent of the municipality in which the facility is located.

Enacted by Chapter 302, 2023 General Session

35A-16-503 Rules.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules governing:

- (1) the submission of a winter response plan under Subsection 35A-16-502(1);
- (2) the review of a winter response plan for purposes of determining compliance under Subsection 35A-16-502(4);
- (3) the process of sending a notice of noncompliance under Subsection 35A-16-502(6); and
- (4) the location, establishment, and operation of a temporary winter response shelter under Section 35A-16-502.

Amended by Chapter 381, 2024 General Session

