

## **Chapter 5 Utah Religious Land Use Act**

### **Part 1 General Provisions**

#### **63L-5-101 Title.**

This chapter is known as the "Utah Religious Land Use Act."

Renumbered and Amended by Chapter 382, 2008 General Session

#### **63L-5-102 Definitions.**

As used in this chapter:

- (1) "Free exercise of religion" means an act or refusal to act that is substantially motivated by sincere religious belief, whether or not the act or refusal is compulsory or central to a larger system of religious belief, and includes the use, building, or conversion of real property for the purpose of religious exercise.
- (2) "Government entity" means the state, a county, a municipality, a higher education institution, a local district, a special service district, any other political subdivision of the state, or any administrative subunit of any of them.
- (3) "Land use regulation" means any state or local law or ordinance, whether statutory or otherwise, that limits or restricts a person's use or development of land or a structure affixed to land.
- (4) "Person" means any individual, partnership, corporation, or other legal entity that owns an interest in real property.

Renumbered and Amended by Chapter 382, 2008 General Session

### **Part 2 Legal Standard**

#### **63L-5-201 Protection of land use as religious exercise.**

- (1) Except as provided in Subsection (2), a government entity may not impose or implement a land use regulation in a manner that imposes a substantial burden on a person's free exercise of religion.
- (2) A government entity may impose or implement a land use regulation in a manner that imposes a substantial burden on a person's free exercise of religion if the government can establish that the imposition of the burden on that person:
  - (a) is in furtherance of a compelling governmental interest; and
  - (b) is the least restrictive means of furthering that compelling governmental interest.
- (3) A government entity that meets the requirements of Subsection (2) need not separately prove that the remedy and penalty provisions of the land use regulation are the least restrictive means to ensure compliance or to punish the failure to comply.
- (4) This act shall not impair the ability of local government to impose costs and fees reasonably necessary to mitigate the off-site impacts of development.

Renumbered and Amended by Chapter 382, 2008 General Session

### **Part 3 Remedies and Procedures**

#### **63L-5-301 Remedies.**

- (1) A person whose free exercise of religion has been substantially burdened by a government entity in violation of Section 63L-5-201 may bring an action in the district court of the county where the largest portion of the property subject to the land use regulation is located.
- (2) Any person who asserts a claim or defense against a government entity under this chapter may request:
  - (a) declaratory relief;
  - (b) temporary or permanent injunctive relief to prevent the threatened or continued violation; or
  - (c) a combination of declaratory and injunctive relief.
- (3) A person may not bring an action under this chapter against an individual, other than an action against an individual acting in the individual's official capacity as an officer of a government entity.

Renumbered and Amended by Chapter 382, 2008 General Session

#### **63L-5-302 Notice of claim -- Government's right to accommodate.**

- (1) A person may not bring an action under Section 63L-5-301 unless, 60 days before bringing the action, the person sends written notice of the intent to bring an action.
- (2) The notice shall be addressed to the government entity imposing the land use regulation, and shall be prepared and delivered according to the requirements of Subsection 63G-7-401(3).
- (3) Mailing of the notice required by Subsection (1) tolls the limitation period for bringing an action under this chapter for a period of 75 days, starting on the day the notice was mailed.
- (4) Notwithstanding Subsection (1), a person may bring an action under Section 63L-5-301 before the expiration of the 60-day notice period if:
  - (a) the imposition of a substantial burden on the person's free exercise of religion by the land use regulation is imminent; and
  - (b) the person was not informed of and did not otherwise have knowledge of the land use regulation in time to reasonably provide 60 days notice.
- (5)
  - (a) A government entity provided with the notice required by Subsection (2) may remedy the substantial burden on the person's free exercise of religion:
    - (i) before the expiration of the 60-day notice period; or
    - (ii) in the case of an action properly brought according to Subsection (4), before the adjudication of a court hearing on the action.
  - (b) Nothing in this section prevents a government entity from providing a remedy after these time periods.
- (6) The court may not award compensatory damages, attorney's fees, costs, or other expenses to a person if the substantial burden has been cured by a remedy implemented by the government entity according to Subsection (5)(a).

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## **Part 4 Application**

### **63L-5-401 Burden on exercise of religion as defense.**

A person whose free exercise of religion has been substantially burdened in violation of this chapter may assert that violation as a defense in a judicial or administrative proceeding without regard to whether the proceeding is brought in the name of the state or by any other person.

Renumbered and Amended by Chapter 382, 2008 General Session

### **63L-5-402 Establishment clause unaffected.**

- (1) This chapter does not authorize government to burden a person's free exercise of religion.
- (2) The protection of religious freedom afforded by this chapter is in addition to the protections provided under federal law and the constitutions of Utah and the United States.
- (3) Nothing in this chapter may be construed to affect, interpret, or in any way address that portion of the First Amendment to the United States Constitution prohibiting laws respecting an establishment of religion.

Renumbered and Amended by Chapter 382, 2008 General Session

### **63L-5-403 Application to certain cases.**

This chapter does not affect and is not intended to affect the authority of government entities to adopt or apply land use regulations that do not involve the free exercise of religion.

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