

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

ZONING AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: LaVar Christensen

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to municipal and county land use.

Highlighted Provisions:

This bill:

- ▶ addresses residential zoning districts;
- ▶ provides that under certain circumstances a land use authority shall make written findings when taking action on a land use application from certain residential facilities; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-516, as repealed and reenacted by Laws of Utah 2013, Chapter 309

17-27a-515, as repealed and reenacted by Laws of Utah 2013, Chapter 309

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **10-9a-516** is amended to read:



28 **10-9a-516. Regulation of residential zoning districts and residential facilities for**
29 **persons with disabilities.**

30 (1) There is a presumption that a zoning district that is primarily for single-family
31 residential use is not an appropriate location for a business, unless the business owner operates
32 the business out of the business owner's primary residence.

33 (2) A municipality may only regulate a residential facility for persons with a disability
34 to the extent allowed by:

35 ~~[(1)]~~ (a) Title 57, Chapter 21, Utah Fair Housing Act, and applicable jurisprudence;

36 ~~[(2)]~~ (b) the Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., and
37 applicable jurisprudence; and

38 ~~[(3)]~~ (c) Section 504, Rehabilitation Act of 1973, and applicable jurisprudence.

39 (3) (a) A municipality shall comply with Subsection (3)(b) if a recovery residence, as
40 defined in Section 62A-2-101, submits a land use application that:

41 (i) requests a conditional use permit, variance, or zoning change;

42 (ii) is considered at a public hearing or meeting; and

43 (iii) involves application of or analysis under:

44 (A) the Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.; or

45 (B) the Americans with Disabilities Act, 42 U.S.C. Sec. 12101 et seq.

46 (b) When a land use authority takes action to approve or reject a land use application
47 described in Subsection (3)(a), the land use authority shall issue written findings that address
48 whether the residents of the residential facility:

49 (i) claim to have a disability solely on the basis of having been adjudicated a juvenile
50 delinquent, having a criminal record, or being a sex offender;

51 (ii) currently use illegal drugs;

52 (iii) have been convicted of the manufacture or sale of illegal drugs; or

53 (iv) would constitute a direct threat or harm to:

54 (A) the health or safety of others; or

55 (B) the property of others.

56 Section 2. Section **17-27a-515** is amended to read:

57 **17-27a-515. Regulation of residential zoning districts and residential facilities for**
58 **persons with disabilities.**

59 (1) There is a presumption that a zoning district that is primarily for single-family
60 residential use is not an appropriate location for a business, unless the business owner operates
61 the business out of the business owner's primary residence.

62 (2) A county may only regulate a residential facility for persons with a disability to the
63 extent allowed by:

64 ~~[(1)]~~ (a) Title 57, Chapter 21, Utah Fair Housing Act, and applicable jurisprudence;

65 ~~[(2)]~~ (b) the Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., and
66 applicable jurisprudence; and

67 ~~[(3)]~~ (c) Section 504, Rehabilitation Act of 1973, and applicable jurisprudence.

68 (3) (a) A county shall comply with Subsection (3)(b) if a recovery residence, as defined
69 in Section [62A-2-101](#), submits a land use application that:

70 (i) requests a conditional use permit, variance, or zoning change;

71 (ii) is considered at a public hearing or meeting; and

72 (iii) involves application of or analysis under:

73 (A) the Fair Housing Amendments Act, 42 U.S.C. Sec. 3601 et seq.; or

74 (B) the Americans with Disabilities Act, 42 U.S.C. Sec. 12101 et seq.

75 (b) When a land use authority takes action to approve or reject a land use application
76 described in Subsection (3)(a), the land use authority shall issue written findings that address
77 whether the residents of the residential facility:

78 (i) claim to have a disability solely on the basis of having been adjudicated a juvenile
79 delinquent, having a criminal record, or being a sex offender;

80 (ii) currently use illegal drugs;

81 (iii) have been convicted of the manufacture or sale of illegal drugs; or

82 (iv) would constitute a direct threat or harm to:

83 (A) the health or safety of others; or

84 (B) the property of others.