

335.25 Zoning for family homes.

1. It is the intent of this section to assist in improving the quality of life of persons with a developmental disability or brain injury by integrating them into the mainstream of society by making available to them community residential opportunities in the residential areas of this state. In order to implement this intent, this section shall be liberally construed.

2. a. “Brain injury” means brain injury as defined in section 135.22.

b. “Developmental disability” means a disability of a person which has continued or can be expected to continue indefinitely and which is one of the following:

(1) Attributable to an intellectual disability, cerebral palsy, epilepsy, or autism.

(2) Attributable to any other condition found to be closely related to an intellectual disability because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with an intellectual disability or requires treatment and services similar to those required for the persons.

(3) Attributable to dyslexia resulting from a disability described in either subparagraph (1) or (2).

(4) Attributable to a mental or nervous disorder.

c. “Family home” means a community-based residential home which is licensed as a residential care facility under chapter 135C or as a child foster care facility under chapter 237 to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight persons with a developmental disability or brain injury and any necessary support personnel. However, family home does not mean an individual foster family home licensed under chapter 237.

d. “Permitted use” means a use by right which is authorized in all residential zoning districts.

e. “Residential” means regularly used by its occupants as a permanent place of abode, which is made one’s home as opposed to one’s place of business and which has housekeeping and cooking facilities for its occupants only.

3. Notwithstanding the optional provision in section 335.1 and any other provision of this chapter to the contrary, a county, county board of supervisors, or a county zoning commission shall consider a family home a residential use of property for the purposes of zoning and shall treat a family home as a permitted use in all residential zones or districts, including all single-family residential zones or districts, of the county. A county, county board of supervisors, or a county zoning commission shall not require that a family home, its owner, or operator obtain a conditional use permit, special use permit, special exception, or variance. However, new family homes owned or operated by public or private agencies shall be dispersed through the residential zones and districts and shall not be located within contiguous areas equivalent in size to city block areas. Section 135C.23, subsection 2, shall apply to all residents of a family home.

4. A restriction, reservation, condition, exception, or covenant in a subdivision plan, deed, or other instrument of or pertaining to the transfer, sale, lease, or use of property in a county which permits residential use of property but prohibits the use of property as a family home for persons with a developmental disability or brain injury, to the extent of the prohibition, is void as against the public policy of this state and shall not be given legal or equitable effect.

83 Acts, ch 11, §1

CS83, §358A.25

C93, §335.25

93 Acts, ch 90, §2; 94 Acts, ch 1023, §107; 94 Acts, ch 1170, §8; 96 Acts, ch 1129, §113; 2012 Acts, ch 1019, §126

Referred to in §135C.9, 335.32, 335.33, 504C.1

[T] Subsection 2, paragraph b, subparagraphs (1) and (2) amended