

Reprinted 4/7/83

Local Government: Connors, Chair; Buhr and Torrence.

Amended for S. 138 - D. Pass 5/21 (p 470)

JAN 26 1983

LOCAL GOVERNMENT

HOUSE FILE 108

BY JOCHUM, STURGEON, CONNORS,
CHAPMAN, CONNOLLY, DODERER,
VARN, CLARK, BUHR, O'KANE,
PAVICH, PEICK, WOODS,
SHERZAN, ROSENBERG, FEY and
CARPENTER

Passed House, Date 3-1-83 (p 534) Passed Senate, Date 3-7-83 (p 649)

Vote: Ayes 89 Nays 7 Vote: Ayes 45 Nays 1

Approved March 28, 1983

A BILL FOR

1 An Act prohibiting county and city zoning practices and re-
2 strictive covenants which exclude or discriminate against
3 community-based residential homes providing room and
4 board and other services for developmentally disabled
5 persons.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 108

1 Section 1. Chapter 358A, Code 1983, is amended by adding
2 the following new section:

3 NEW SECTION. 358A.25 ZONING FOR FAMILY HOMES.

4 1. It is the intent of this section to assist in improving
5 the quality of life of developmentally disabled persons by
6 integrating them into the mainstream of society by making
7 available to them community residential opportunities in the
8 residential areas of this state. In order to implement this
9 intent, this section shall be liberally construed.

10 2. a. "Developmental disability" or "developmentally
11 disabled" means a disability of a person which has continued
12 or can be expected to continue indefinitely and which is one
13 of the following:

14 (1) Attributable to mental retardation, cerebral palsy,
15 epilepsy, or autism.

16 (2) Attributable to any other condition found to be closely
17 related to mental retardation because the condition results
18 in impairment of general intellectual functioning or adaptive
19 behavior similar to that of mentally retarded persons or re-
20 quires treatment and services similar to those required for
21 the persons.

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

24 b. "Family home" means a community-based residential home
25 that provides room and board, personal care, habilitation
26 services, and supervision in a family environment for not
27 more than eight developmentally disabled persons.

28 c. "Permitted use" means a use by right which is authorized
29 in all residential zoning districts.

30 d. "Residential" means regularly used by its occupants
31 as a permanent place of abode, which is made one's home as
32 opposed to one's place of business and which has housekeeping
33 and cooking facilities for its occupants only.

34 3. Notwithstanding the optional provision in section
35 358A.1 and any other provision of this chapter to the contrary,

1 a county, county board of supervisors, or a county zoning
2 commission shall consider a family home a residential use
3 of property for the purposes of zoning and shall treat a
4 family home as a permitted use in all residential zones or
5 districts, including all single-family residential zones or
6 districts, of the county. A county, county board of
7 supervisors, or a county zoning commission shall not require
8 that a family home, its owner, or operator obtain a conditional
9 use permit, special use permit, special exception, or variance.

10 However, a family home shall be licensed by the state
11 department of health or the department of social services
12 and shall possess a permit from the state department of health
13 as provided in section 135.16.

14 4. A restriction, reservation, condition, exception, or
15 covenant in a subdivision plan, deed, or other instrument
16 of or pertaining to the transfer, sale, lease, or use of
17 property in a county which permits residential use of property
18 but prohibits the use of property as a family home for
19 developmentally disabled persons, to the extent of the
20 prohibition, is void as against the public policy of this
21 state and shall not be given legal or equitable effect.

22 Sec. 2. Chapter 414, Code 1983, is amended by adding the
23 following new section:

24 NEW SECTION. 414.22 ZONING FOR FAMILY HOMES.

25 1. It is the intent of this section to assist in improving
26 the quality of life of developmentally disabled persons by
27 integrating them into the mainstream of society by making
28 available to them community residential opportunities in the
29 residential areas of this state. In order to implement this
30 intent, this section shall be liberally construed.

31 2. a. "Developmental disability" or "developmentally
32 disabled" means a disability of a person which has continued
33 or can be expected to continue indefinitely and which is one
34 of the following:

35 (1) Attributable to mental retardation, cerebral palsy,

1 epilepsy, or autism.

2 (2) Attributable to any other condition found to be closely
3 related to mental retardation because the condition results
4 in impairment of general intellectual functioning or adaptive
5 behavior similar to that of mentally retarded persons or re-
6 quires treatment and services similar to those required for
7 the persons.

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

10 b. "Family home" means a community-based residential home
11 that provides room and board, personal care, habilitation
12 services, and supervision in a family environment for not
13 more than eight developmentally disabled persons.

14 c. "Permitted use" means a use by right which is authorized
15 in all residential zoning districts.

16 d. "Residential" means regularly used by its occupants
17 as a permanent place of abode, which is made one's home as
18 opposed to one's place of business and which has housekeeping
19 and cooking facilities for its occupants only.

20 3. Notwithstanding any provision of this chapter to the
21 contrary, a city, city council, or city zoning commission
22 shall consider a family home a residential use of property
23 for the purposes of zoning and shall treat a family home as
24 a permitted use in all residential zones or districts,
25 including all single-family residential zones or districts,
26 of the city. A city, city council, or city zoning commission
27 shall not require that a family home, its owner, or operator
28 obtain a conditional use permit, special use permit, special
29 exception, or variance. However, a family home shall be li-
30 censed by the state department of health or the department
31 of social services and shall possess a permit from the state
32 department of health as provided in section 135.16.

33 4. Any restriction, reservation, condition, exception,
34 or covenant in any subdivision plan, deed, or other instrument
35 of or pertaining to the transfer, sale, lease, or use of

1 property in a city which permits residential use of property
2 but prohibits the use of property as a family home for
3 developmentally disabled persons, to the extent of the
4 prohibition, is void as against the public policy of this
5 state and shall not be given legal or equitable effect.

6 Sec. 3. Chapter 135, Code 1983, is amended by adding the
7 following new section:

8 NEW SECTION. 135.16 LICENSING OF FAMILY HOMES.

9 1. For the purpose of promoting and protecting the health
10 and safety of developmentally disabled persons and avoiding
11 over-concentration of similar community-based residences,
12 the department shall issue permits to all licensed family
13 homes on the effective date of this Act and may issue permits
14 to proposed family homes pursuant to rules promulgated under
15 paragraph a. A permit is valid until the physical facility
16 is no longer used as a family home. Within one hundred eighty
17 days of the effective date of this Act, the department shall
18 promulgate rules which shall encompass the following matters:

19 a. Limits on the number of new family homes to be permitted
20 on blocks, block faces, and other appropriate geographic areas
21 taking into account the existing residential population density
22 and the number, occupancy, and location of similar community
23 residential facilities serving persons in drug, alcohol,
24 juvenile, child, parole, and other programs of treatment,
25 care, supervision, or rehabilitation in a community setting.

26 b. Procedures by which a resident of a residential zoning
27 district or the governing body of a county or city in which
28 a family home is to be located may petition the department
29 to deny an application for a permit to locate a family home
30 on the grounds that the operation of the home would be in
31 violation of the limits established under paragraph a.

32 2. a. An applicant for a permit to locate a family home
33 shall apply to the department for the permit and shall file
34 a copy of the application and any amendment to the application
35 with the board of supervisors in the county or the council

1 in the city in which the family home is to be located. An
2 application shall include population and occupancy statistics
3 relating to the limits established pursuant to subsection
4 1, paragraph a.

5 b. The department shall not issue a permit for a family
6 home until the applicant has submitted to the department proof
7 of filing as required in paragraph a. A copy of the
8 application shall be filed at least thirty days prior to the
9 granting of a permit, and any amendment of the application
10 increasing the number of residents to be served shall be filed
11 at least fifteen days before the granting of a permit.

12 c. In order to facilitate the implementation of subsection
13 1, paragraph a, the department shall maintain a list of the
14 location, capacity, and current occupancy of all family homes.
15 The list shall not contain the names or other identifiable
16 information about any residents of the homes. A copy of the
17 list shall be available to any resident of this state and
18 any state agency or political subdivision upon request.

19 EXPLANATION

20 This bill prohibits county and city zoning practices of
21 excluding and discriminating against community-based
22 residential homes (family homes) which provide room and board
23 and other services for not more than eight developmentally
24 disabled persons. The bill requires that family homes be
25 considered permitted uses in all residential zones or
26 districts, including single-family residential zones or
27 districts. In addition, private restrictions and covenants
28 prohibiting the use of property for family homes are voided.

29 To be protected under the bill the family homes must be
30 licensed either by the department of health or the department
31 of social services. The department of health is charged with
32 the responsibility of issuing permits to locate new family
33 homes in order to avoid over-concentration of similar
34 community-based residences.

35 The bill takes effect July 1 following its enactment.

HOUSE FILE 108

H-3169

Amend House File 108 as follows:

1. Page 1, by striking line 25 and inserting in lieu thereof the following: "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".
2. Page 1, line 27, by inserting after the word "persons." the following: "However, family home does not mean an individual foster family home licensed under chapter 237."
3. Page 2, by striking lines 10 through 13 and inserting in lieu thereof the following: "However, a new family home shall not be located within one-fourth of a mile from another family home."
4. Page 3, by striking line 11 and inserting in lieu thereof the following: "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".
5. Page 3, line 13, by inserting after the word "persons." the following: "However, family home does not mean an individual foster care family home licensed under chapter 237."
6. Page 3, by striking lines 29 through 32 and inserting in lieu thereof the words "exception, or variance. However, a new family home shall not be located within one-fourth of a mile from another family home."
7. By striking page 4, line 6 through page 5, line 18.

H-3169 FILED MARCH 1, 1983

BY JOCHUM of Dubuque

ADOPTED (p. 539)

HOUSE FILE 108

H-3138

- 1 Amend House File 108 as follows:
2 1. Page 1, by inserting after line 23 the
3 following:
4 "(4) Attributable to a mental or nervous disorder."
5 2. Page 1, by striking lines 26 and 27 and
6 inserting in lieu thereof the following: "services,
7 and supervision in a family environment exclusively
8 for not more than eight developmentally disabled
9 persons and any necessary support personnel."
10 3. Page 2, line 13, by inserting after the numbers
11 "135.16." the following: "Section 135C.23, subsection
12 2 shall apply to all residents of a family home."
13 4. Page 3, by inserting after line 9 the following:
14 "(4) Attributable to a mental or nervous disorder."
15 5. Page 3, by striking lines 12 and 13 and
16 inserting in lieu thereof the following: "services,
17 and supervision in a family environment exclusively
18 for not more than eight developmentally disabled
19 persons and any necessary support personnel."
20 6. Page 3, line 32, by inserting after the numbers
21 "135.16." the following: "Section 135C.23, subsection
22 2 shall apply to all residents of a family home."
23 7. Page 5, by striking lines 16 through 18 and
24 inserting in lieu thereof the words "information about
25 any residents of the homes."

H-3138 FILED FEBRUARY 21, 1983 BY COMMITTEE ON LOCAL GOVERNMENT

Adopted 2/1/83 (p. 537)

HOUSE FILE 108

H-3139

- 1 Amend House File 108 as follows:
2 1. Page 1, line 23, by striking the numerals and
3 word "(2) or (3)" and inserting in lieu thereof the
4 following: "(1) or (2)".
5 2. Page 3, line 9, by striking the numerals and
6 word "(2) or (3)" and inserting in lieu thereof the
7 following: "(1) or (2)".

H-3139 FILED FEBRUARY 21, 1983 BY CONNORS of Polk

Adopted 2/1/83 (p. 538)

(As Amended and Passed by the House)

BY JOCHUM, STURGEON, CONNORS,
CHAPMAN, CONNOLLY, DODERER,
VARN, CLARK, BUHR, O'KANE,
PAVICH, PEICK, WOODS,
SHERZAN, ROSENBERG, FEY and
CARPENTER

Passed House, Date 3-1-83 (p. 534) Passed Senate, Date 3-7-83 (p. 649)
Vote: Ayes 89 Nays 7 Vote: Ayes 45 Nays 1
Approved March 28, 1983 (p. 932)

A BILL FOR

1 An Act prohibiting county and city zoning practices and re-
2 strictive covenants which exclude or discriminate against
3 community-based residential homes providing room and
4 board and other services for developmentally disabled
5 persons.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

Deleted Language *****

1 Section 1. Chapter 358A, Code 1983, is amended by adding
2 the following new section:

3 NEW SECTION. 358A.25 ZONING FOR FAMILY HOMES.

4 1. It is the intent of this section to assist in improving
5 the quality of life of developmentally disabled persons by
6 integrating them into the mainstream of society by making
7 available to them community residential opportunities in the
8 residential areas of this state. In order to implement this
9 intent, this section shall be liberally construed.

10 2. a. "Developmental disability" or "developmentally
11 disabled" means a disability of a person which has continued
12 or can be expected to continue indefinitely and which is one
13 of the following:

14 (1) Attributable to mental retardation, cerebral palsy,
15 epilepsy, or autism.

16 (2) Attributable to any other condition found to be closely
17 related to mental retardation because the condition results
18 in impairment of general intellectual functioning or adaptive
19 behavior similar to that of mentally retarded persons or re-
20 quires treatment and services similar to those required for
21 the persons.

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

24 (4) Attributable to a mental or nervous disorder.

25 b. "Family home" means a community-based residential home
26 which is licensed as a residential care facility under chapter
27 135C or as a child foster care facility under chapter 237
28 to provide room and board, personal care, habilitation
29 services, and supervision in a family environment exclusively
30 for not more than eight developmentally disabled persons and
31 any necessary support personnel. However, family home does
32 not mean an individual foster family home licensed under
33 chapter 237.

34 c. "Permitted use" means a use by right which is authorized
35 in all residential zoning districts.

1 d. "Residential" means regularly used by its occupants
2 as a permanent place of abode, which is made one's home as
3 opposed to one's place of business and which has housekeeping
4 and cooking facilities for its occupants only.

5 3. Notwithstanding the optional provision in section
6 358A.1 and any other provision of this chapter to the contrary,
7 a county, county board of supervisors, or a county zoning
8 commission shall consider a family home a residential use
9 of property for the purposes of zoning and shall treat a
10 family home as a permitted use in all residential zones or
11 districts, including all single-family residential zones or
12 districts, of the county. A county, county board of
13 supervisors, or a county zoning commission shall not require
14 that a family home, its owner, or operator obtain a conditional
15 use permit, special use permit, special exception, or variance.
16 However, a new family home shall not be located within one-
17 fourth of a mile from another family home. Section 135C.23,
18 subsection 2 shall apply to all residents of a family home.

19 4. A restriction, reservation, condition, exception, or
20 covenant in a subdivision plan, deed, or other instrument
21 of or pertaining to the transfer, sale, lease, or use of
22 property in a county which permits residential use of property
23 but prohibits the use of property as a family home for
24 developmentally disabled persons, to the extent of the
25 prohibition, is void as against the public policy of this
26 state and shall not be given legal or equitable effect.

27 Sec. 2. Chapter 414, Code 1983, is amended by adding the
28 following new section:

29 NEW SECTION. 414.22 ZONING FOR FAMILY HOMES.

30 1. It is the intent of this section to assist in improving
31 the quality of life of developmentally disabled persons by
32 integrating them into the mainstream of society by making
33 available to them community residential opportunities in the
34 residential areas of this state. In order to implement this
35 intent, this section shall be liberally construed.

1 2. a. "Developmental disability" or "developmentally
2 disabled" means a disability of a person which has continued
3 or can be expected to continue indefinitely and which is one
4 of the following:

5 (1) Attributable to mental retardation, cerebral palsy,
6 epilepsy, or autism.

7 (2) Attributable to any other condition found to be closely
8 related to mental retardation because the condition results
9 in impairment of general intellectual functioning or adaptive
10 behavior similar to that of mentally retarded persons or re-
11 quires treatment and services similar to those required for
12 the persons.

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

15 (4) Attributable to a mental or nervous disorder.

16 b. "Family home" means a community-based residential home
17 which is licensed as a residential care facility under chapter
18 135C or as a child foster care facility under chapter 237
19 to provide room and board, personal care, habilitation
20 services, and supervision in a family environment exclusively
21 for not more than eight developmentally disabled persons and
22 any necessary support personnel. However, family home does
23 not mean an individual foster care family home licensed under
24 chapter 237.

25 c. "Permitted use" means a use by right which is authorized
26 in all residential zoning districts.

27 d. "Residential" means regularly used by its occupants
28 as a permanent place of abode, which is made one's home as
29 opposed to one's place of business and which has housekeeping
30 and cooking facilities for its occupants only.

31 3. Notwithstanding any provision of this chapter to the
32 contrary, a city, city council, or city zoning commission
33 shall consider a family home a residential use of property
34 for the purposes of zoning and shall treat a family home as
35 a permitted use in all residential zones or districts,

1 including all single-family residential zones or districts,
2 of the city. A city, city council, or city zoning commission
3 shall not require that a family home, its owner, or operator
4 obtain a conditional use permit, special use permit, special
5 exception, or variance. However, a new family home shall
6 not be located within one-fourth of a mile from another family
7 home. Section 135C.23, subsection 2 shall apply to all
8 residents of a family home.

9 4. Any restriction, reservation, condition, exception,
10 or covenant in any subdivision plan, deed, or other instrument
11 of or pertaining to the transfer, sale, lease, or use of
12 property in a city which permits residential use of property
13 but prohibits the use of property as a family home for
14 developmentally disabled persons, to the extent of the
15 prohibition, is void as against the public policy of this
16 state and shall not be given legal or equitable effect.

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HOUSE FILE 108

AN ACT

PROHIBITING COUNTY AND CITY ZONING PRACTICES AND RESTRICTIVE COVENANTS WHICH EXCLUDE OR DISCRIMINATE AGAINST COMMUNITY-BASED RESIDENTIAL HOMES PROVIDING ROOM AND BOARD AND OTHER SERVICES FOR DEVELOPMENTALLY DISABLED PERSONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Chapter 358A, Code 1983, is amended by adding the following new section:

NEW SECTION. 358A.25 ZONING FOR FAMILY HOMES.

1. It is the intent of this section to assist in improving the quality of life of developmentally disabled persons 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. "Developmental disability" or "developmentally disabled" 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 mental retardation, cerebral palsy, epilepsy, or autism.

(2) Attributable to any other condition found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons 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.

b. "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 developmentally disabled persons and any necessary support personnel. However, family home does not mean an individual foster family home licensed under chapter 237.

c. "Permitted use" means a use by right which is authorized in all residential zoning districts.

d. "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 358A.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, a new family home shall not be located within one-fourth of a mile from another family home. 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 developmentally disabled persons, 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.

Sec. 2. Chapter 414, Code 1983, is amended by adding the following new section:

NEW SECTION. 414.22 ZONING FOR FAMILY HOMES.

1. It is the intent of this section to assist in improving the quality of life of developmentally disabled persons 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. "Developmental disability" or "developmentally disabled" 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 mental retardation, cerebral palsy, epilepsy, or autism.
- (2) Attributable to any other condition found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons 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).

(9) Attributable to a mental or nervous disorder.

b. "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 developmentally disabled persons and any necessary support personnel. However, family home does not mean an individual foster care family home licensed under chapter 237.

c. "Permitted use" means a use by right which is authorized in all residential zoning districts.

d. "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 any provision of this chapter to the contrary, a city, city council, or city 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 city. A city, city council, or city 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, a new family home shall not be located within one-fourth of a mile from another family home. Section 135C.23, subsection 2 shall apply to all residents of a family home.

4. Any restriction, reservation, condition, exception, or covenant in any subdivision plan, deed, or other instrument of or pertaining to the transfer, sale, lease, or use of property in a city which permits residential use of property but prohibits the use of property as a family home for developmentally disabled persons, 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.

DONALD D. AVENSON
Speaker of the House

ROBERT T. ANDERSON
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 108, Seventieth General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved March 28, 1983

TERRY E. BRANSTAD
Governor

H.F. 108