

CHAPTER 319

HEALTH AND ENVIRONMENT

HOUSE BILL 00-1368

BY REPRESENTATIVES Lee, Fairbank, McKay, Clapp, and Paschall;
also SENATOR Blickensderfer.

AN ACT

CONCERNING COMPLIANCE BY CERTAIN RESIDENTIAL FACILITIES WITH LOCAL GOVERNMENT ZONING REQUIREMENTS AS A CONDITION TO STATE LICENSURE OF SUCH FACILITIES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that it is in the public interest to:

(a) Assure appropriate and timely communication and information sharing among entities involved in the licensure or approval of certain residential homes and facilities in the state, including state agencies, local governments, and private persons or entities;

(b) Improve consistency across multiple programs and agencies related to the licensure or approval of such residential homes or facilities; and

(c) Reaffirm that the establishment of group homes serving the aged, persons with developmental disabilities, and persons with mental illness is a matter of statewide concern.

SECTION 2. Part 3 of article 1 of title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

25-1-306.5. Compliance with local government zoning regulations - notice to local governments - provisional approval. (1) THE DIVISION SHALL REQUIRE ANY RESIDENTIAL TREATMENT FACILITY SEEKING APPROVAL AS A PUBLIC OR PRIVATE TREATMENT FACILITY PURSUANT TO THIS PART 3 TO COMPLY WITH ANY APPLICABLE ZONING REGULATIONS OF THE MUNICIPALITY, CITY AND COUNTY, OR COUNTY WHERE THE FACILITY IS SITUATED. FAILURE TO COMPLY WITH APPLICABLE ZONING REGULATIONS SHALL CONSTITUTE GROUNDS FOR THE DENIAL OF APPROVAL OF A

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

FACILITY.

(2) THE DIVISION SHALL ASSURE THAT TIMELY WRITTEN NOTICE IS PROVIDED TO THE MUNICIPALITY, CITY AND COUNTY, OR COUNTY WHERE A RESIDENTIAL TREATMENT FACILITY IS SITUATED, INCLUDING THE ADDRESS OF THE FACILITY AND THE POPULATION AND NUMBER OF PERSONS TO BE SERVED BY THE FACILITY, WHEN ANY OF THE FOLLOWING OCCURS:

(a) AN APPLICATION FOR APPROVAL OF A RESIDENTIAL TREATMENT FACILITY PURSUANT TO SECTION 25-1-306 IS MADE;

(b) APPROVAL IS GRANTED TO A RESIDENTIAL TREATMENT FACILITY PURSUANT TO SECTION 25-1-306;

(c) A CHANGE IN THE APPROVAL OF A RESIDENTIAL TREATMENT FACILITY OCCURS;
OR

(d) THE APPROVAL OF A RESIDENTIAL TREATMENT FACILITY IS REVOKED OR OTHERWISE TERMINATED FOR ANY REASON.

(3) IN THE EVENT OF A ZONING OR OTHER DELAY OR DISPUTE BETWEEN A RESIDENTIAL TREATMENT FACILITY AND THE MUNICIPALITY, CITY AND COUNTY, OR COUNTY WHERE THE FACILITY IS SITUATED, THE DIVISION MAY GRANT PROVISIONAL APPROVAL OF THE FACILITY FOR UP TO ONE HUNDRED TWENTY DAYS PENDING RESOLUTION OF THE DELAY OR DISPUTE.

SECTION 3. Article 27 of title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

25-27-105.5. Compliance with local government zoning regulations - notice to local governments - provisional licensure. (1) THE DEPARTMENT SHALL REQUIRE ANY PERSONAL CARE BOARDING HOME SEEKING LICENSURE PURSUANT TO THIS ARTICLE 27 TO COMPLY WITH ANY APPLICABLE ZONING REGULATIONS OF THE MUNICIPALITY, CITY AND COUNTY, OR COUNTY WHERE THE HOME IS SITUATED. FAILURE TO COMPLY WITH APPLICABLE ZONING REGULATIONS SHALL CONSTITUTE GROUNDS FOR THE DENIAL OF A LICENSE TO A HOME; EXCEPT THAT NOTHING IN THIS SECTION SHALL BE CONSTRUED TO SUPERSEDE THE PROVISIONS OF SECTIONS 30-28-115 (2), 31-23-301 (4), AND 31-23-303 (2), C.R.S.

(2) THE DEPARTMENT SHALL ASSURE THAT TIMELY WRITTEN NOTICE IS PROVIDED TO THE MUNICIPALITY, CITY AND COUNTY, OR COUNTY WHERE A PERSONAL CARE BOARDING HOME IS SITUATED, INCLUDING THE ADDRESS OF THE HOME AND THE POPULATION AND NUMBER OF PERSONS TO BE SERVED BY THE HOME, WHEN ANY OF THE FOLLOWING OCCURS:

(a) AN APPLICATION FOR A LICENSE TO OPERATE A PERSONAL CARE BOARDING HOME PURSUANT TO SECTION 25-27-105 IS MADE;

(b) A LICENSE IS GRANTED TO A PERSONAL CARE BOARDING HOME PURSUANT TO SECTION 25-27-105;

(c) A CHANGE IN THE LICENSE OF A PERSONAL CARE BOARDING HOME OCCURS; OR

(d) THE LICENSE OF A PERSONAL CARE BOARDING HOME IS REVOKED OR OTHERWISE TERMINATED FOR ANY REASON.

(3) NOTWITHSTANDING THE PROVISIONS OF SECTION 25-27-105 (4), IN THE EVENT OF A ZONING OR OTHER DELAY OR DISPUTE BETWEEN A PERSONAL CARE BOARDING HOME AND THE MUNICIPALITY, CITY AND COUNTY, OR COUNTY WHERE THE HOME IS SITUATED, THE DEPARTMENT MAY GRANT A PROVISIONAL LICENSE TO THE HOME FOR UP TO ONE HUNDRED TWENTY DAYS PENDING RESOLUTION OF THE DELAY OR DISPUTE.

SECTION 4. Part 1 of article 6 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

26-6-104.5. Compliance with local government zoning regulations - notice to local governments - provisional licensure. (1) THE DEPARTMENT SHALL REQUIRE ANY CHILD CARE FACILITY SEEKING LICENSURE PURSUANT TO SECTION 26-6-104 TO COMPLY WITH ANY APPLICABLE ZONING REGULATIONS OF THE MUNICIPALITY, CITY AND COUNTY, OR COUNTY WHERE THE FACILITY IS SITUATED. FAILURE TO COMPLY WITH APPLICABLE ZONING REGULATIONS SHALL CONSTITUTE GROUNDS FOR THE DENIAL OF A LICENSE TO A FACILITY.

(2) THE DEPARTMENT SHALL ASSURE THAT TIMELY WRITTEN NOTICE IS PROVIDED TO THE MUNICIPALITY, CITY AND COUNTY, OR COUNTY WHERE A CHILD CARE FACILITY IS SITUATED, INCLUDING THE ADDRESS OF THE FACILITY AND THE POPULATION AND NUMBER OF PERSONS TO BE SERVED BY THE FACILITY, WHEN ANY OF THE FOLLOWING OCCURS:

(a) A PERSON APPLIES FOR A LICENSE TO OPERATE A CHILD CARE FACILITY PURSUANT TO SECTION 26-6-104;

(b) A LICENSE IS GRANTED TO OPERATE A CHILD CARE FACILITY PURSUANT TO SECTION 26-6-104;

(c) A CHANGE IN THE LICENSE OF A CHILD CARE FACILITY OCCURS; OR

(d) THE LICENSE OF A CHILD CARE FACILITY IS REVOKED OR OTHERWISE TERMINATED FOR ANY REASON.

(3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN THE EVENT OF A ZONING OR OTHER DELAY OR DISPUTE BETWEEN A CHILD CARE FACILITY AND THE MUNICIPALITY, CITY AND COUNTY, OR COUNTY WHERE THE FACILITY IS SITUATED, THE DEPARTMENT MAY GRANT A PROVISIONAL LICENSE TO THE FACILITY FOR UP TO ONE HUNDRED TWENTY DAYS PENDING RESOLUTION OF THE DELAY OR DISPUTE.

(4) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY FOSTER CARE HOME CERTIFIED PURSUANT TO THIS PART 1.

SECTION 5. Part 1 of article 10.5 of title 27, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

27-10.5-109.5. Compliance with local government zoning regulations - notice to local governments - provisional licensure. (1) THE DEPARTMENT SHALL REQUIRE ANY COMMUNITY RESIDENTIAL HOME SEEKING LICENSURE PURSUANT TO SECTION 27-10.5-109 TO COMPLY WITH ANY APPLICABLE ZONING REGULATIONS OF THE MUNICIPALITY, CITY AND COUNTY, OR COUNTY WHERE THE HOME IS SITUATED. FAILURE TO COMPLY WITH APPLICABLE ZONING REGULATIONS SHALL CONSTITUTE GROUNDS FOR THE DENIAL OF A LICENSE TO A HOME; EXCEPT THAT NOTHING IN THIS SECTION SHALL BE CONSTRUED TO SUPERSEDE THE PROVISIONS OF SECTIONS 30-28-115 (2), 31-23-301 (4), AND 31-23-303 (2), C.R.S.

(2) THE DEPARTMENT SHALL ASSURE THAT TIMELY WRITTEN NOTICE IS PROVIDED TO THE MUNICIPALITY, CITY AND COUNTY, OR COUNTY WHERE A COMMUNITY RESIDENTIAL HOME IS SITUATED, INCLUDING THE ADDRESS OF THE HOME AND THE POPULATION AND NUMBER OF PERSONS TO BE SERVED BY THE HOME, WHEN ANY OF THE FOLLOWING OCCURS:

(a) AN APPLICATION FOR A LICENSE TO OPERATE A COMMUNITY RESIDENTIAL HOME PURSUANT TO SECTION 27-10.5-109 IS MADE;

(b) A LICENSE IS GRANTED TO A COMMUNITY RESIDENTIAL HOME PURSUANT TO SECTION 27-10.5-109;

(c) A CHANGE IN THE LICENSE OF A COMMUNITY RESIDENTIAL HOME OCCURS; OR

(d) THE LICENSE OF A COMMUNITY RESIDENTIAL HOME IS REVOKED OR OTHERWISE TERMINATED FOR ANY REASON.

(3) IN THE EVENT OF A ZONING OR OTHER DELAY OR DISPUTE BETWEEN A COMMUNITY RESIDENTIAL HOME AND THE MUNICIPALITY, CITY AND COUNTY, OR COUNTY WHERE THE HOME IS SITUATED, THE DEPARTMENT MAY GRANT A PROVISIONAL LICENSE TO THE HOME FOR UP TO ONE HUNDRED TWENTY DAYS PENDING RESOLUTION OF THE DELAY OR DISPUTE.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 2000