

Ordinance

Town of Utica, Winnebago County, State of Wisconsin

No. 2017-103

Special Permit for Community Living Arrangements

WHEREAS, the Town Board is desirous to create a special permit for any licensed adult family home or community living arrangement which has been determined pursuant to Section 60.63(10) of the Wis. Stats. To pose a threat to the health, safety, or welfare of the residents of the town;

WHEREAS, there has been concern expressed by Town Residents that certain family home or community living arrangements were creating issues that the Town wanted the opportunity to be able to address according to law;

NOW THEREFORE, the Town does hereby create Article II, Section 22,

- A. Review of Health, Safety, or Welfare. Not less than 11 months nor more than 13 months after the first licensure of an adult family home under Section 50.033 or of a community living arrangement and every year thereafter, the Town Board may make a determination as to the effect of the adult family home or community living arrangement on the health, safety or welfare of the residents of the Town. If it elects to make such a determination, it shall proceed according to the provisions of Paragraph B below.
- B. Hearing Procedure. Pursuant to Section 60.63(11), the Town Board may make a determination as to the effect of the adult family home or community living arrangement on the health, safety or welfare of the residents of the Town after a hearing before the Town Board. The Town shall provide at least 30 days' notice to the licensed adult family home or the community living arrangement that such a hearing will be held. At the hearing, the licensed adult family home or the community living arrangement may be represented by counsel and may present evidence and call and examine witnesses and cross-examine other witnesses called. The Town Board may call witnesses and may issue subpoenas. All witnesses shall be sworn by the Town Board. The Town Board shall take notes of the testimony and shall mark and preserve all exhibits. The Town Board may, and upon request of the licensed adult family home or the community living arrangement shall, cause the proceedings to be taken by the stenographer or by a recording device, the expense thereof to be paid by the Town. Within 20 days after the hearing, the Town Board shall deliver to the licensed adult family home or the community living arrangement its written determination stating the reasons therefor. The determination shall be a final determination.

- C. Hearing Decision. If, after the hearing, the Town Board determines that the existence of an adult family home or community living arrangement poses a threat to the health, safety, or welfare of the residents of the town, the Board may order the adult family home or community living arrangement to cease operation unless a special permit is obtained. The Town Board order is subject to judicial review under Section 68.13, except that a free copy of the transcript may not be provided to the licensed adult family home or community living arrangement. The licensed adult family home or community living arrangement must cease operation within 90 days after the date of the order, or the date of the final judicial review of the order, or the date of the denial of the special permit permission, whichever is later.
- D. Special Permit. A special permit may be granted by the Town Board after public hearing if there are conditions that may be imposed upon the adult family home or community living arrangement which will serve to adequately mitigate the threat to the health, safety or welfare of the residents of the Town. The special permit shall be considered by the Town by first begin referred to the Plan Commission for recommendation and by following the conditional use procedures where applicable.

Dated and Passed on the 14th day of August, 2017 by the Town Board of the Town of Utica


Leonard Schmick, Town Chairman

ATTESTED BY:


Jenny Sonneitner, Town Clerk

APPROVED AS TO FORM:


John M. Blazel, Town Attorney

AYES: 3 / NAYES: 0
PASSED THIS 14TH DAY OF AUGUST, 2017
PUBLISHED THIS 22 DAY OF AUGUST, 2017