

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE PRINCIPAL CLERK

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HOUSE DRH90041-LR-43 (02/04)

Short Title: Zoning/Health Care Structure. (Public)

Sponsors: Representatives Moffitt, Howard, and Setzer (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT RELATING TO ZONING PROVISIONS FOR TEMPORARY HEALTH CARE
3 STRUCTURES.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Part 3 of Article 18 of Chapter 153A of the General Statutes is
6 amended by adding a new section to read:

7 "§ 153A-341.3. Zoning of temporary health care structures.

8 A county exercising powers under this Article shall comply with G.S. 160A-383.5."

9 SECTION 2. Part 3 of Article 19 of Chapter 160A of the General Statutes is
10 amended by adding a new section to read:

11 "§ 160A-383.5. Zoning of temporary health care structures.

12 (a) The following definitions apply in this section:

13 (1) Activities of daily living. – Bathing, dressing, personal hygiene, ambulation
14 or locomotion, transferring, toileting, and eating.

15 (2) Caregiver. – An individual 18 years of age or older who (i) provides care for
16 a mentally or physically impaired person and (ii) is a first or second degree
17 relative of the mentally or physically impaired person for whom the
18 individual is caring.

19 (3) First or second degree relative. – A spouse, lineal ascendant, lineal
20 descendant, sibling, uncle, aunt, nephew, or niece and includes half, step,
21 and in-law relationships.

22 (4) Mentally or physically impaired person. – A person who is a resident of this
23 State and who requires assistance with two or more activities of daily living
24 as certified in writing by a physician licensed to practice in this State.

25 (5) Temporary family health care structure. – A transportable residential
26 structure, providing an environment facilitating a caregiver's provision of
27 care for a mentally or physically impaired person, that (i) is primarily
28 assembled at a location other than its site of installation, (ii) is limited to one
29 occupant who shall be the mentally or physically impaired person, (iii) has
30 no more than 300 gross square feet, and (iv) complies with applicable
31 provisions of the State Building Code and G.S. 143-139.1(b). Placing the
32 temporary family health care structure on a permanent foundation shall not
33 be required or permitted.

34 (b) A city shall consider a temporary family health care structure used by a caregiver in
35 providing care for a mentally or physically impaired person on property owned or occupied by



1 the caregiver as the caregiver's residence as a permitted accessory use in any single-family
2 residential zoning district on lots zoned for single-family detached dwellings.

3 (c) A city shall consider a temporary family health care structure used by an individual
4 who is the named legal guardian of the mentally or physically impaired person a permitted
5 accessory use in any single-family residential zoning district on lots zoned for single-family
6 detached dwellings in accordance with this section if the temporary family health care structure
7 is placed on the property of the residence of the individual and is used to provide care for the
8 mentally or physically impaired person.

9 (d) Only one temporary family health care structure shall be allowed on a lot or parcel
10 of land. The temporary family health care structures under subsections (b) and (c) of this
11 section shall not require a special use permit or be subjected to any other local zoning
12 requirements beyond those imposed upon other authorized accessory use structures, except as
13 otherwise provided in this section. Such temporary family health care structures shall comply
14 with all setback requirements that apply to the primary structure and with any maximum floor
15 area ratio limitations that may apply to the primary structure.

16 (e) Any person proposing to install a temporary family health care structure shall first
17 obtain a permit from the city. The city may charge a fee of up to one hundred dollars (\$100.00)
18 for the initial permit and an annual renewal fee of up to fifty dollars (\$50.00). The city may not
19 withhold a permit if the applicant provides sufficient proof of compliance with this section. The
20 city may require that the applicant provide evidence of compliance with this section on an
21 annual basis as long as the temporary family health care structure remains on the property. The
22 evidence may involve the inspection by the city of the temporary family health care structure at
23 reasonable times convenient to the caregiver, not limited to any annual compliance
24 confirmation, and annual renewal of the doctor's certification.

25 (f) Notwithstanding subsection (i) of this section, any temporary family health care
26 structure installed under this section may be required to connect to any water, sewer, and
27 electric utilities serving the property and shall comply with all applicable State law, local
28 ordinances, and other requirements, including Part 5 of this Article, as if the temporary family
29 health care structure were permanent real property.

30 (g) No signage advertising or otherwise promoting the existence of the temporary
31 health care structure shall be permitted either on the exterior of the temporary family health
32 care structure or elsewhere on the property.

33 (h) Any temporary family health care structure installed pursuant to this section shall be
34 removed within 60 days in which the mentally or physically impaired person is no longer
35 receiving or is no longer in need of the assistance provided for in this section. If the temporary
36 family health care structure is needed for another mentally or physically impaired person, the
37 temporary family health care structure may continue to be used, or may be reinstated on the
38 property within 60 days of its removal, as applicable.

39 (i) The city may revoke the permit granted pursuant to subsection (e) of this section if
40 the permit holder violates any provision of this section or G.S. 160A-202. The city may seek
41 injunctive relief or other appropriate actions or proceedings to ensure compliance with this
42 section or G.S. 160A-202.

43 (j) Temporary family health care structures shall be treated as tangible personal
44 property for purposes of taxation."

45 **SECTION 3.** G.S. 130A-250 is amended by adding a new subdivision to read:

46 "(14) Temporary family health care structures under G.S. 153A-341.1 or
47 G.S. 160A-383.5."

48 **SECTION 4.** G.S. 131D-2.1(10) reads as rewritten:

49 "(10) Multiunit assisted housing with services. – An assisted living residence in
50 which hands-on personal care services and nursing services which are
51 arranged by housing management are provided by a licensed home care or

1 hospice agency through an individualized written care plan. The housing
2 management has a financial interest or financial affiliation or formal written
3 agreement which makes personal care services accessible and available
4 through at least one licensed home care or hospice agency. The resident has
5 a choice of any provider, and the housing management may not combine
6 charges for housing and personal care services. All residents, or their
7 compensatory agents, must be capable, through informed consent, of
8 entering into a contract and must not be in need of 24-hour supervision.
9 Assistance with self-administration of medications may be provided by
10 appropriately trained staff when delegated by a licensed nurse according to
11 the home care agency's established plan of care. Multiunit assisted housing
12 with services programs are required to register annually with the Division of
13 Health Service Regulation. Multiunit assisted housing with services
14 programs are required to provide a disclosure statement to the Division of
15 Health Service Regulation. The disclosure statement is required to be a part
16 of the annual rental contract that includes a description of the following
17 requirements:

- 18 a. Emergency response system;
- 19 b. Charges for services offered;
- 20 c. Limitations of tenancy;
- 21 d. Limitations of services;
- 22 e. Resident responsibilities;
- 23 f. Financial/legal relationship between housing management and home
24 care or hospice agencies;
- 25 g. A listing of all home care or hospice agencies and other community
26 services in the area;
- 27 h. An appeals process; and
- 28 i. Procedures for required initial and annual resident screening and
29 referrals for services.

30 Continuing care retirement communities, subject to regulation by the
31 Department of Insurance under Chapter 58 of the General Statutes, and
32 temporary family health care structures, as defined in G.S. 160A-383.5, are
33 exempt from the regulatory requirements for multiunit assisted housing with
34 services programs."

35 **SECTION 5.** G.S. 160A-442(2) reads as rewritten:

36 "(2) "Dwelling" means any building, structure, manufactured home or mobile
37 home, or part thereof, used and occupied for human habitation or intended to
38 be so used, and includes any outhouses and appurtenances belonging thereto
39 or usually enjoyed therewith, except that it does not include any
40 manufactured home or mobile home, which is used solely for a seasonal
41 vacation purpose. Temporary family health care structures, as defined in
42 G.S. 160A-383.5, shall be considered dwellings for purposes of this Part,
43 provided that any ordinance provision requiring minimum square footage
44 shall not apply to such structures."

45 **SECTION 6.** If any provision of this act or its application is held invalid, the
46 invalidity does not affect other provisions or applications of this act that can be given effect
47 without the invalid provisions or application, and to this end the provisions of this act are
48 severable.

49 **SECTION 7.** This act becomes effective July 1, 2013, and applies to temporary
50 family health care structures existing on or after that date. No county or city may impose a fee

1 as authorized by Section 1 of this act on any temporary family health care structure existing on
2 that date.