



MIKE CAUSEY, INSURANCE COMMISSIONER & STATE FIRE MARSHAL  
BRIAN TAYLOR, CHIEF STATE FIRE MARSHAL

## **MEMORANDUM**

Date: August 9, 2017

To: Code Officials, Zoning Officials, Health Care Officials, Manufacturers, Consumers, and other Interested Parties

From: C. Patrick Walker, PE  
Technical Services Manager  
Manufactured Building Division  
NC Department of Insurance/Office of State Fire Marshal

Re: Temporary Family Health Care Structures in North Carolina

In 2014 the North Carolina Legislature enacted legislation allowing the usage of small temporary health care structures to provide an environment facilitating a caregiver's provision of care for a mentally or physically impaired person. Temporary health care structures are acceptable in North Carolina provided they are constructed and installed in accordance with the following minimum requirements:

**NOTE: This is not intended to be an all-inclusive list of requirements.** North Carolina General Statutes references are to NCGS § 153A-341.3, NCGS § 160A-383. 5, and NCGS 143-139.1 (each attached). All Code references are to the current edition of the *North Carolina State Residential Code* (currently 2012 edition) unless otherwise noted.

### **Administrative Requirements**

1. A *Temporary Family Health Care Structure* is a transportable residential structure that:
  - a. Provides an environment facilitating a caregiver's provision of care for a mentally or physically impaired person.
  - b. Must be used for *Activities of Daily Living* such as bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.
  - c. Is limited to one occupant which shall be the mentally or physically impaired person.
  
2. The *Caregiver*:
  - a. Must be 18 years of age or older.
  - b. Provides care for a mentally or physically impaired person.
  - c. Must be *First or Second Degree Relative* of the mentally or physically impaired person.
    - i. A *First or Second Degree Relative* is a spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, or niece and includes half, step, and in-law relationships.

3. A *Mentally or Physically Impaired Person* is a resident of North Carolina that requires assistance with two or more *Activities of Daily Living* as certified in writing by a physician licensed to practice in this State.
4. Signage advertising or promoting the existence of the temporary health care structure shall not be permitted either on the exterior of the unit or elsewhere on the property.
5. The City or County may charge a fee of up to one hundred dollars (\$100.00) for the initial permit.
6. The City or County may charge a fee of up to fifty dollars (\$50.00) for an annual renewal fee.
7. The City or County may revoke the permit granted if the permit holder violates any provision of NCGS § 160A-383.5. or § 160A-202.
8. The City or County may not withhold a permit if the applicant provides sufficient proof of compliance with NCGS § 153A-341.3 and/or NCGS § 160A-383.5.
9. The City or County may require that the applicant provide evidence of compliance with these requirements on an annual basis as long as the temporary family health care structure remains on the property.
  - a. Evidence may involve the inspection by the City or County of the temporary family health care structure at reasonable times convenient to the caregiver, and is not limited to any annual compliance confirmation, and annual renewal of the doctor's certification.
10. The unit shall be treated as tangible personal property for purposes of taxation.

### **Unit Construction Requirements**

11. Unit is primarily assembled at a location other than its site of installation.
12. Must be constructed in accordance with the NC State Residential Code. - *NCGS § 160A-383.5(a)(5)(iv)*
13. Must be constructed under the NC Modular Construction Program. - *NCGS § 160A-383.5(a)(5)(iv)*
  - a. NC Modular Construction Program requirements. - *NCGS § 143-139.1*
    - i. Must be Labeled with a North Carolina Modular Construction Validating Stamp.
14. Must meet the NC Modular Construction Appearance Requirements. – NC GS 143-139.1(b)
  - b. Minimum 5/12 roof pitch for homes with a single predominant roofline.
  - c. Minimum 10-inch eave projection.
    - i. 10-inch eave projection shall not include a gutter unless the roof pitch is 8/12 or greater.
  - d. Minimum 7 feet-6 inches exterior wall height.
  - e. Siding and roofing materials and texture must be compatible in composition, appearance, and durability exterior materials commonly used in standard residential construction.
15. Must have a maximum of 300 gross square feet of floor area.

### **Unit Installation Requirements**

16. Must first be permitted by the local building official having jurisdiction over the building site. – *NCGS 160A-383.5(e) and Section 106.1 - NC Administrative Code and Policies*
  - a. The Local Building Official shall consider the unit as a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings.
  - b. Unit shall not require a special use permit or be subjected to any other local zoning requirements beyond those imposed upon other authorized accessory use structures.
17. Shall not be required nor permitted to be installed on a permanent Code complying foundation.
18. Only one *Temporary Family Health Care Structure* can be used on a lot or parcel of land.
19. Must meet the local set-back requirements.
20. Must meet any maximum floor area ratio limitations that may apply to the primary structure.

21. May be required to connect to any water, sewer, and electrical utilities serving the property.
22. Must comply with all applicable State law, local ordinances, and other requirements including Part 5-Building Inspection of Chapter 160A-Cities and Towns, Article 19-Planning and Regulation of Development, as if the temporary family health care structure were permanent real property.

### **Unit Occupancy Requirements**

23. Unit is limited to one occupant which shall be the mentally or physically impaired person.
24. The temporary family health care structure must be removed within 60 days in which the impaired person is no longer receiving care or is no longer in need of care.
25. If the unit is needed for another impaired person, it may continue to be used, or may be reinstated on the property within 60 days of its removal.

## **NC General Statutes as of August 9, 2017**

### **NCGS § 153A-341.3. Zoning of temporary health care structures.**

A county exercising powers under this Article shall comply with G.S. 160A-383.5. (2014-94, s.

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### **NCGS § 160A-383.5. Zoning of temporary health care structures.**

(a) The following definitions apply in this section:

- (1) Activities of daily living. - Bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.
- (2) Caregiver. - An individual 18 years of age or older who (i) provides care for a mentally or physically impaired person and (ii) is a first or second degree relative of the mentally or physically impaired person for whom the individual is caring.
- (3) First or second degree relative. - A spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, or niece and includes half, step, and in-law relationships.
- (4) Mentally or physically impaired person. - A person who is a resident of this State and who requires assistance with two or more activities of daily living as certified in writing by a physician licensed to practice in this State.
- (5) Temporary family health care structure. - A transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S. 143-139.1 (b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

(b) A city shall consider a temporary family health care structure used by a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by the caregiver as the caregiver's residence as a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings.

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

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

(e) Any person proposing to install a temporary family health care structure shall first obtain a permit from the city. The city may charge a fee of up to one hundred dollars (\$100.00) for the initial permit

and an annual renewal fee of up to fifty dollars (\$50.00). The city may not withhold a permit if the applicant provides sufficient proof of compliance with this section. The city may require that the applicant provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. The evidence may involve the inspection by the city of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation, and annual renewal of the doctor's certification.

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

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

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

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

(j) Temporary family health care structures shall be treated as tangible personal property for purposes of taxation. (2014-94, s. 2.)

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**NCGS § 143-139.1. Certification of manufactured buildings, structures or components by recognized independent testing laboratory; minimum standards for modular homes.**

(a) Certification. - The State Building Code may provide, in circumstances deemed appropriate by the Building Code Council, for testing, evaluation, inspection, and certification of buildings, structures or components manufactured off the site on which they are to be erected, by a recognized independent testing laboratory having follow-up inspection services approved by the Building Code Council. Approval of such buildings, structures or components shall be evidenced by labels or seals acceptable to the Council. All building units, structures or components bearing such labels or seals shall be deemed to meet the requirements of the State Building Code and this Article without further inspection or payment of fees, except as may be required for the enforcement of the Code relative to the connection of units and components and enforcement of local ordinances governing zoning, utility connections, and foundations permits. The Building Code Council shall adopt and may amend from time to time such reasonable and appropriate rules and regulations as it deems necessary for approval of agencies offering such testing, evaluation, inspection, and certification services and for overseeing their operations. Such rules and regulations shall include provisions to insure that such agencies are independent and free of any potential conflicts of interest which might influence their judgment in exercising their functions under the Code. Such rules and regulations may include a schedule of reasonable fees to cover

administrative expenses in approving and overseeing operations of such agencies and may require the posting of a bond or other security satisfactory to the Council guaranteeing faithful performance of duties under the Code.

The Building Code Council may also adopt rules to insure that any person that is not licensed, in accordance with G.S. 87-1, and that undertakes to erect a North Carolina labeled manufactured modular building, meets the manufacturer's installation instructions and applicable provisions of the State Building Code. Any such person, before securing a permit to erect a modular building, shall provide the code enforcement official proof that he has in force for each modular building to be erected a \$5,000 surety bond insuring compliance with the regulations of the State Building Code governing installation of modular buildings.

(b) **Minimum Standards for Modular Homes.** - To qualify for a label or seal under subsection (a) of this section, a single-family modular home must meet or exceed the following construction and design standards:

- (1) **Roof pitch.** - For homes with a single predominant roofline, the pitch of the roof shall be no less than five feet rise for every 12 feet of run.
- (2) **Eave projection.** - The eave projections of the roof shall be no less than 10 inches, which may not include a gutter around the perimeter of the home, unless the roof pitch is 8/12 or greater.
- (3) **Exterior wall.** - The minimum height of the exterior wall shall be at least seven feet six inches for the first story.
- (4) **Siding and roofing materials.** - The materials and texture for the exterior materials shall be compatible in composition, appearance, and durability to the exterior materials commonly used in standard residential construction.
- (5) **Foundations.** - The home shall be designed to require foundation supports around the perimeter. The supports may be in the form of piers, pier and curtain wall, piling foundations, a perimeter wall, or other approved perimeter supports. (1971, c. 1099; 1989, c. 653, s. 2; 2003-400, s. 17.)