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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 2497

03/08/2016 Authored by Peterson, Loonan, Newton, Pugh, Laine and others

The bill was read for the first time and referred to the Committee on Aging and Long-Term Care Policy

03/17/2016 Adoption of Report: Amended and re-referred to the Committee on Government Operations and Elections Policy

1.1 A bill for an act
1.2 relating to local government; regulating zoning of temporary family health care
1.3 dwellings; adding temporary family health care dwellings to the definition of a
1.4 housing with services establishment; amending Minnesota Statutes 2014, section
1.5 144D.01, subdivision 4; proposing coding for new law in Minnesota Statutes,
1.6 chapters 394; 462.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2014, section 144D.01, subdivision 4, is amended to read:

1.9 Subd. 4. **Housing with services establishment or establishment.** (a) "Housing
1.10 with services establishment" or "establishment" means:

1.11 (1) an establishment providing sleeping accommodations to one or more adult
1.12 residents, at least 80 percent of which are 55 years of age or older, and offering or
1.13 providing, for a fee, one or more regularly scheduled health-related services or two or
1.14 more regularly scheduled supportive services, whether offered or provided directly by the
1.15 establishment or by another entity arranged for by the establishment; or

1.16 (2) an establishment that registers under section 144D.025.

1.17 (b) Housing with services establishment does not include:

1.18 (1) a nursing home licensed under chapter 144A;

1.19 (2) a hospital, certified boarding care home, or supervised living facility licensed
1.20 under sections 144.50 to 144.56;

1.21 (3) a board and lodging establishment licensed under chapter 157 and Minnesota
1.22 Rules, parts 9520.0500 to 9520.0670, 9525.0215 to 9525.0355, 9525.0500 to 9525.0660,
1.23 or 9530.4100 to 9530.4450, or under chapter 245D;

1.24 (4) a board and lodging establishment which serves as a shelter for battered women
1.25 or other similar purpose;

2.1 (5) a family adult foster care home licensed by the Department of Human Services;

2.2 (6) private homes in which the residents are related by kinship, law, or affinity with
2.3 the providers of services;

2.4 (7) residential settings for persons with developmental disabilities in which the
2.5 services are licensed under Minnesota Rules, parts 9525.2100 to 9525.2140, or applicable
2.6 successor rules or laws;

2.7 (8) a home-sharing arrangement such as when an elderly or disabled person or
2.8 single-parent family makes lodging in a private residence available to another person
2.9 in exchange for services or rent, or both;

2.10 (9) a duly organized condominium, cooperative, common interest community, or
2.11 owners' association of the foregoing where at least 80 percent of the units that comprise the
2.12 condominium, cooperative, or common interest community are occupied by individuals
2.13 who are the owners, members, or shareholders of the units; ~~or~~

2.14 (10) services for persons with developmental disabilities that are provided under
2.15 a license according to Minnesota Rules, parts 9525.2000 to 9525.2140 in effect until
2.16 January 1, 1998, or under chapter 245D; or

2.17 (11) a temporary family health care dwelling as defined in sections 394.307 and
2.18 462.3593.

2.19 **Sec. 2. [394.307] ZONING OF TEMPORARY FAMILY HEALTH CARE**
2.20 **DWELLING.**

2.21 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms
2.22 have the meanings given.

2.23 (b) "Caregiver" means an individual 18 years of age or older who:

2.24 (1) provides care for a mentally or physically impaired person, and

2.25 (2) is a relative, legal guardian, or health care agent of the mentally or physically
2.26 impaired person for whom the individual is caring.

2.27 (c) "Instrumental activities of daily living" has the meaning given in section
2.28 256B.0659, subdivision 1, paragraph (i).

2.29 (d) "Relative" means a spouse, parent, child, grandchild, sibling, uncle, aunt,
2.30 nephew, or niece of the mentally or physically impaired person. Relative includes half,
2.31 step, and in-law relationships.

2.32 (e) "Mentally or physically impaired person" means a person who is a resident of
2.33 this state and who requires assistance with two or more instrumental activities of daily
2.34 living as certified in writing by a physician licensed to practice in this state.

3.1 (f) "Temporary family health care dwelling" means a mobile residential dwelling
3.2 providing an environment facilitating a caregiver's provision of care for a mentally or
3.3 physically impaired person that meets the requirements of subdivision 2.

3.4 Subd. 2. **Temporary family health care dwelling requirements.** (a) A temporary
3.5 family health care dwelling must:

- 3.6 (1) be primarily assembled at a location other than its site of installation;
3.7 (2) be limited to one occupant who must be a mentally or physically impaired person;
3.8 (3) be no more than 300 gross square feet;
3.9 (4) not be placed on a permanent foundation;
3.10 (5) be universally designed and meet state-recognized accessibility standards;
3.11 (6) provide access to water, sewer, and electric utilities either by connecting to the
3.12 utilities that are serving the principal dwelling on the lot or by other comparable means;
3.13 (7) have exterior materials that are compatible in composition, appearance, and
3.14 durability to the exterior materials used in standard residential construction;
3.15 (8) have a minimum insulation rating of R-15;
3.16 (9) be able to be installed, removed, and transported by a one-ton pickup truck as
3.17 defined in section 168.002, subdivision 21b;
3.18 (10) be built to American National Standards Institute Code 119.2; and
3.19 (11) be equipped with a backflow check valve.

3.20 Subd. 3. **County requirements.** (a) A county must consider a temporary family
3.21 health care dwelling as a permitted accessory use in any single-family residential zoning
3.22 district on lots zoned for single-family detached dwellings, if the temporary family health
3.23 care dwelling is located on property where a caregiver or relative resides. A county must
3.24 not require a conditional use permit or interim use permit for a temporary family health
3.25 care dwelling, unless required for other accessory use structures. A temporary family
3.26 health care dwelling must comply with all setback requirements that apply to the primary
3.27 structure and with any maximum floor area ratio limitations that may apply to the primary
3.28 structure. Only one temporary health care dwelling is allowed on a lot.

3.29 (b) Prior to installing a temporary family health care dwelling, a caregiver or relative
3.30 must first obtain a permit from the county. The permit application must include, at a
3.31 minimum:

3.32 (1) the name, address, and telephone number of the primary caregiver who is
3.33 responsible for the care of the mentally or physically impaired person and the signature
3.34 of the primary caregiver;

3.35 (2) proof of the provider network from which the mentally or physically impaired
3.36 person may receive respite care, primary care, or remote patient monitoring services; and

4.1 (3) an executed contract for septic service management or other proof of adequate
4.2 septic service management.

4.3 (c) Unless otherwise provided by ordinance, the county may charge a fee of up to
4.4 \$100 for the initial permit and a renewal fee of up to \$50. The initial permit is valid for
4.5 six months. The applicant may renew the permit once for a period of time negotiated
4.6 between the applicant and the county. The county may not withhold an initial permit if the
4.7 applicant provides proof of compliance with this section. The county may require that the
4.8 applicant provide evidence of compliance with this section as long as the temporary family
4.9 health care dwelling remains on the property. The county may inspect the temporary
4.10 family health care dwelling at reasonable times convenient to the caregiver to determine
4.11 if the dwelling is occupied and is meeting the requirements of this section. The county
4.12 may require, by ordinance, that the applicant submit a certification from a doctor that the
4.13 mentally or physically impaired person needs assistance with two or more instrumental
4.14 activities of daily living.

4.15 (d) Unless otherwise provided, a temporary family health care dwelling installed
4.16 under this section must comply with all applicable state law, local ordinances, and other
4.17 requirements, as if the temporary family health care dwelling were permanent real property.

4.18 (e) Any temporary family health care dwelling installed pursuant to this section must
4.19 be removed within 60 days after the mentally or physically impaired person is no longer
4.20 receiving or is no longer in need of the assistance provided for in this section.

4.21 (f) The county may revoke the permit granted pursuant to paragraph (d) if the permit
4.22 holder violates any requirement of this section. If the county revokes a permit, the permit
4.23 holder must be allowed 60 days from the date of revocation to remove the temporary
4.24 family health care dwelling.

4.25 (g) Temporary family health care dwellings must be taxed on proper application
4.26 of chapter 168.

4.27 **Sec. 3. [462.3593] ZONING OF TEMPORARY FAMILY HEALTH CARE**
4.28 **DWELLING.**

4.29 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms
4.30 have the meanings given.

4.31 (b) "Caregiver" means an individual 18 years of age or older who:

4.32 (1) provides care for a mentally or physically impaired person, and

4.33 (2) is a relative, legal guardian, or health care agent of the mentally or physically
4.34 impaired person for whom the individual is caring.

5.1 (c) "Instrumental activities of daily living" has the meaning given in section
5.2 256B.0659, subdivision 1, paragraph (i).

5.3 (d) "Relative" means a spouse, parent, child, grandchild, sibling, uncle, aunt,
5.4 nephew, or niece of the mentally or physically impaired person. Relative includes half,
5.5 step, and in-law relationships.

5.6 (e) "Mentally or physically impaired person" means a person who is a resident of
5.7 this state and who requires assistance with two or more instrumental activities of daily
5.8 living as certified in writing by a physician licensed to practice in this state.

5.9 (f) "Temporary family health care dwelling" means a mobile residential dwelling
5.10 providing an environment facilitating a caregiver's provision of care for a mentally or
5.11 physically impaired person that meets the requirements of subdivision 2.

5.12 Subd. 2. **Temporary family health care dwelling requirements.** (a) A temporary
5.13 family health care dwelling must:

- 5.14 (1) be primarily assembled at a location other than its site of installation;
5.15 (2) be limited to one occupant who must be a mentally or physically impaired person;
5.16 (3) be no more than 300 gross square feet;
5.17 (4) not be placed on a permanent foundation;
5.18 (5) be universally designed and meet state-recognized accessibility standards;
5.19 (6) provide access to water, sewer, and electric utilities either by connecting to the
5.20 utilities that are serving the principal dwelling on the lot or by other comparable means;
5.21 (7) have exterior materials that are compatible in composition, appearance, and
5.22 durability to the exterior materials used in standard residential construction;
5.23 (8) have a minimum insulation rating of R-15;
5.24 (9) be able to be installed, removed, and transported by a one-ton pickup as defined
5.25 in section 168.002, subdivision 21b;
5.26 (10) be built to American National Standards Institute Code 119.2; and
5.27 (11) be equipped with a backflow check valve.

5.28 Subd. 3. **Municipal requirements.** (a) A municipality must consider a temporary
5.29 family health care dwelling as a permitted accessory use in any single-family residential
5.30 zoning district on lots zoned for single-family detached dwellings if the temporary
5.31 family health care dwelling is located on property where a caregiver or relative resides.
5.32 A municipality must not require a conditional use permit or interim use permit for a
5.33 temporary family health care dwelling, unless required for other accessory use structures.
5.34 A temporary family health care dwelling must comply with all setback requirements that
5.35 apply to the primary structure and with any maximum floor area ratio limitations that may
5.36 apply to the primary structure. Only one temporary health care dwelling is allowed on a lot.

6.1 (b) Prior to installing a temporary family health care dwelling, a caregiver or relative
6.2 must first obtain a permit from the municipality. The permit application must include,
6.3 at a minimum:

6.4 (1) the name, address, and telephone number of the primary caregiver who is
6.5 responsible for the care of the mentally or physically impaired person and the signature
6.6 of the primary caregiver;

6.7 (2) proof of the provider network from which the mentally or physically impaired
6.8 person may receive respite care, primary care, or remote patient monitoring services; and

6.9 (3) an executed contract for septic service management or other proof of adequate
6.10 septic service management.

6.11 (c) Unless otherwise provided by ordinance, the municipality may charge a fee of up
6.12 to \$100 for the initial permit and a renewal fee of up to \$50. The initial permit is valid
6.13 for six months. The applicant may renew the permit once for a period of time negotiated
6.14 between the applicant and the municipality. The municipality may not withhold a permit
6.15 if the applicant provides proof of compliance with this section. The municipality may
6.16 require that the applicant provide evidence of compliance with this section as long as the
6.17 temporary family health care dwelling remains on the property. The municipality may
6.18 inspect the temporary family health care dwelling at reasonable times convenient to the
6.19 caregiver to determine if the dwelling is occupied and is meeting the requirements of
6.20 this section. The municipality may require, by ordinance, that the applicant submit a
6.21 certification from a doctor that the mentally or physically impaired person needs assistance
6.22 with two or more instrumental activities of daily living.

6.23 (d) Unless otherwise provided, a temporary family health care dwelling installed
6.24 under this section must comply with all applicable state law, local ordinances, and other
6.25 requirements, as if the temporary family health care dwelling were permanent real property.

6.26 (e) Any temporary family health care dwelling installed pursuant to this section must
6.27 be removed within 60 days after the mentally or physically impaired person is no longer
6.28 receiving or is no longer in need of the assistance provided for in this section.

6.29 (f) The municipality may revoke the permit granted pursuant to paragraph (d) if the
6.30 permit holder violates any requirement of this section. If the municipality revokes a
6.31 permit, the permit holder must be allowed 60 days from the date of revocation to remove
6.32 the temporary family health care dwelling.

6.33 (g) Temporary family health care dwellings must be taxed on proper application
6.34 of chapter 168.

7.1 Sec. 4. **TRANSITION OF EXISTING TEMPORARY FAMILY HEALTH CARE**
7.2 **DWELLINGS.**

7.3 A caregiver who is caring for a mentally or physically impaired person who resides
7.4 in a temporary family health care dwelling on the effective date of this act must apply for
7.5 a permit as provided in Minnesota Statutes, section 394.307, subdivision 3, or Minnesota
7.6 Statutes, section 462.3593, subdivision 3, within 30 calendar days of the effective date of
7.7 this act, unless the dwelling is already permitted pursuant to other law or ordinance. The
7.8 county or municipality must not impose a fee for the initial permit.

7.9 Sec. 5. **SEVERABILITY.**

7.10 If any provision of this act is found to be unconstitutional and void, the remaining
7.11 provisions of this act are valid.

7.12 Sec. 6. **EFFECTIVE DATE.**

7.13 Sections 1 to 5 are effective the day following final enactment.