

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
- 03/31/2016 Adoption of Report: Placed on the General Register as Amended
Read Second Time
- 05/04/2016 Referred to the Chief Clerk for Comparison with S. F. No. 2555
- 05/05/2016 Postponed Indefinitely

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] TEMPORARY FAMILY HEALTH CARE DWELLINGS.**

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

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

2.23 (1) provides care for a mentally or physically impaired person; and

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

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

2.28 (d) "Mentally or physically impaired person" means a person who is a resident of
2.29 this state and who requires assistance with two or more instrumental activities of daily
2.30 living as certified in writing by a physician or a physician assistant licensed to practice in
2.31 this state, or a certified nurse practitioner.

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

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

3.4 Subd. 2. **Temporary family health care dwelling.** A temporary family health
3.5 care dwelling must:

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

3.19 Subd. 3. **Temporary conditional use; application.** (a) Unless the county has
3.20 designated temporary health care dwellings as permitted uses, a temporary health care
3.21 dwelling is a temporary conditional use subject to the provisions in this section. A
3.22 temporary family health care dwelling that meets the requirements of this section as a
3.23 temporary conditional use cannot be prohibited under any other local ordinance regulating
3.24 accessory uses or recreational vehicle parking or storage.

3.25 (b) The caregiver or relative must get a temporary conditional use permit from the
3.26 county. The permit application must be signed by the primary caregiver and the owner
3.27 of the property on which the dwelling will be located, and the resident of the property
3.28 if different from the owner, and include:

- 3.29 (1) the name, address, and telephone number of the property owner, the resident of
3.30 the property if different from the owner, and the primary caregiver responsible for the care
3.31 of the mentally or physically impaired person; and the name of the mentally or physically
3.32 impaired person who will live in the dwelling;
3.33 (2) proof of the provider network from which the mentally or physically impaired
3.34 person may receive respite care, primary care, or remote patient monitoring services;
3.35 (3) an executed contract for septic service management or other proof of adequate
3.36 septic service management;

4.1 (4) an affidavit that the applicants have provided notice to adjacent property owners
4.2 and residents of the application for the temporary conditional use permit; and

4.3 (5) a general site map to show the location of the dwelling and other structures
4.4 on the lot.

4.5 (c) The temporary family health care dwelling must be located on property where
4.6 the caregiver or relative resides. A dwelling must comply with all setback requirements
4.7 that apply to the primary structure and with any maximum floor area ratio limitations
4.8 that may apply to the primary structure. The dwelling must be located on the lot so that
4.9 septic services and emergency vehicles can gain access to the dwelling in a safe and
4.10 timely manner.

4.11 (d) A temporary family health care dwelling is limited to one occupant who is
4.12 identified in the application and only one temporary health care dwelling is allowed on a lot.

4.13 (e) Unless otherwise provided, a temporary family health care dwelling installed
4.14 under this section must comply with all applicable state law, local ordinances, and other
4.15 requirements.

4.16 Subd. 4. **Initial permit term; renewal.** The initial temporary conditional use permit
4.17 is valid for six months. The applicant may renew the permit once for an additional six
4.18 months, or a longer period of time negotiated between the applicant and the county.

4.19 Subd. 5. **Inspection.** The county may require that the permit holder provide
4.20 evidence of compliance with this section as long as the temporary family health care
4.21 dwelling remains on the property. The county may inspect the dwelling at reasonable
4.22 times convenient to the caregiver to determine if the dwelling is occupied and meets
4.23 the requirements of this section.

4.24 Subd. 6. **Revocation of permit.** The county may revoke the temporary conditional
4.25 use permit if the permit holder violates any requirement of this section. If the county
4.26 revokes a permit, the permit holder has 60 days from the date of revocation to remove
4.27 the temporary family health care dwelling.

4.28 Subd. 7. **Fee.** Unless otherwise provided by ordinance, the county may charge a fee
4.29 of up to \$100 for the initial permit and up to \$50 for a renewal of the permit.

4.30 Subd. 8. **No public hearing required; application of section 15.99.** (a) Due to the
4.31 time-sensitive nature of issuing a temporary conditional use permit for a temporary family
4.32 health care dwelling, the county does not have to hold a public hearing on the request.

4.33 (b) The procedures governing the time limit for deciding an application for the
4.34 temporary conditional use permit under this section are governed by section 15.99, except
4.35 that a county has 15 days to issue a permit requested under this section or to deny it. If the
4.36 county receives a written request that does not contain all required information, the 15-day

5.1 limit starts over only if the county sends written notice within five business days of receipt
5.2 of the request telling the requester what information is missing. Notwithstanding section
5.3 15.99, subdivision 3, paragraph (f), the county cannot extend the period of time to decide.

5.4 Subd. 9. **Opt-out.** A county may by resolution opt-out of the requirements of
5.5 this section.

5.6 **EFFECTIVE DATE.** This section is effective July 1, 2016, and applies to
5.7 temporary conditional use permit applications made under this section on or after that date.

5.8 Sec. 3. **[462.3593] TEMPORARY FAMILY HEALTH CARE DWELLINGS.**

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

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

5.12 (1) provides care for a mentally or physically impaired person; and

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

5.15 (c) "Instrumental activities of daily living" has the meaning given in section
5.16 256B.0659, subdivision 1, paragraph (i).

5.17 (d) "Mentally or physically impaired person" means a person who is a resident of
5.18 this state and who requires assistance with two or more instrumental activities of daily
5.19 living as certified in writing by a physician or physician assistant licensed to practice in
5.20 this state, or a certified nurse practitioner.

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

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

5.27 Subd. 2. **Temporary family health care dwelling.** A temporary family health
5.28 care dwelling must:

5.29 (1) be primarily assembled at a location other than its site of installation;

5.30 (2) be no more than 300 gross square feet;

5.31 (3) not be attached to a permanent foundation;

5.32 (4) be universally designed and meet state-recognized accessibility standards;

5.33 (5) provide access to water, sewer, and electric utilities either by connecting to the
5.34 utilities that are serving the principal dwelling on the lot or by other comparable means;

6.1 (6) have exterior materials that are compatible in composition, appearance, and
6.2 durability to the exterior materials used in standard residential construction;

6.3 (7) have a minimum insulation rating of R-15;

6.4 (8) be able to be installed, removed, and transported by a one-ton pickup truck as
6.5 defined in section 168.002, subdivision 21b;

6.6 (9) be built to American National Standards Institute Code 119.2; and

6.7 (10) be equipped with a backflow check valve.

6.8 Subd. 3. **Temporary conditional use; application.** (a) Unless the municipality
6.9 has designated temporary health care dwellings as permitted uses, a temporary health
6.10 care dwelling is a temporary conditional use subject to the provisions in this section. A
6.11 temporary family health care dwelling that meets the requirements of this section as a
6.12 temporary conditional use cannot be prohibited under any other local ordinance regulating
6.13 accessory uses or recreational vehicle parking or storage.

6.14 (b) The caregiver or relative must get a temporary conditional use permit from
6.15 the municipality. The permit application must be signed by the primary caregiver and
6.16 the owner of the property on which the dwelling will be located, and the resident of the
6.17 property if different from the owner, and include:

6.18 (1) the name, address, and telephone number of the property owner, the resident of
6.19 the property if different from the owner, and the primary caregiver responsible for the care
6.20 of the mentally or physically impaired person; and the name of the mentally or physically
6.21 impaired person who will live in the dwelling;

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

6.24 (3) an executed contract for septic service management or other proof of adequate
6.25 septic service management;

6.26 (4) an affidavit that the applicants have provided notice to adjacent property owners
6.27 and residents of the application for the temporary conditional use permit; and

6.28 (5) a general site map to show the location of the dwelling and other structures
6.29 on the lot.

6.30 (c) The temporary family health care dwelling must be located on property where
6.31 the caregiver or relative resides. A dwelling must comply with all setback requirements
6.32 that apply to the primary structure and with any maximum floor area ratio limitations
6.33 that may apply to the primary structure. The dwelling must be located on the lot so that
6.34 septic services and emergency vehicles can gain access to the dwelling in a safe and
6.35 timely manner.

7.1 (d) A temporary family health care dwelling is limited to one occupant who is
7.2 identified in the application and only one temporary health care dwelling is allowed on a lot.

7.3 (e) Unless otherwise provided, a temporary family health care dwelling installed
7.4 under this section must comply with all applicable state law, local ordinances, and other
7.5 requirements.

7.6 Subd. 4. **Initial permit term; renewal.** The initial temporary conditional use permit
7.7 is valid for six months. The applicant may renew the permit once for an additional six
7.8 months, or a longer period of time negotiated between the applicant and the municipality.

7.9 Subd. 5. **Inspection.** The municipality may require that the permit holder provide
7.10 evidence of compliance with this section as long as the temporary family health care
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7.12 times convenient to the caregiver to determine if the dwelling is occupied and meets
7.13 the requirements of this section.

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7.15 conditional use permit if the permit holder violates any requirement of this section. If the
7.16 municipality revokes a permit, the permit holder has 60 days from the date of revocation
7.17 to remove the temporary family health care dwelling.

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7.19 a fee of up to \$100 for the initial permit and up to \$50 for a renewal of the permit.

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7.21 time-sensitive nature of issuing a temporary conditional use permit for a temporary family
7.22 health care dwelling, the municipality does not have to hold a public hearing on the request.

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7.24 temporary conditional use permit under this section are governed by section 15.99,
7.25 except that a municipality has 15 days to issue a permit requested under this section or to
7.26 deny it. If the municipality receives a written request that does not contain all required
7.27 information, the 15-day limit starts over only if the municipality sends written notice
7.28 within five business days of receipt of the request telling the requester what information is
7.29 missing. Notwithstanding section 15.99, subdivision 3, paragraph (f), the municipality
7.30 cannot extend the period of time to decide.

7.31 Subd. 9. **Opt-out.** A municipality may by resolution opt-out of the requirements
7.32 of this section.

7.33 **EFFECTIVE DATE.** This section is effective July 1, 2016, and applies to
7.34 temporary conditional use permit applications made under this section on or after that date.