

CITY OF WILLMAR

Planning and Development Services
City Office Building
333 SW 6th Street
Willmar, MN 56201
320-235-8311

COUNCIL ACTION REQUEST

DATE: June 30, 2016

SUBJECT: Temporary Family Health Care Dwellings

RECOMMENDATION: To refer the matter to the Planning Commission for a recommendation regarding City participation in the program.

BACKGROUND: On May 12, 2016, Governor Dayton signed into law a bill creating a new process for local governments to permit certain types of recreational vehicles as temporary family health care dwellings. The main motivation behind the law was to create transitional housing for seniors. If a family needs to keep a close eye on an elderly family member while they are recuperating from medical issues, the new law allows that person to stay in a temporary family health care dwelling in the yard or driveway. The law allows for broader use in that anyone who needs assistance with "two or more instrumental activities of daily life" for mental or physical reasons is eligible to be housed in one of these structures. The League of Minnesota Cities was very instrumental in working with the Legislature in crafting this bill. Under the law, the City of Willmar has two options: the City is either required to issue the permits to qualified applicants starting on September 1, 2016, or the City must pass an Ordinance to opt out. The law allows for permits to be denied for appropriate cause and the law is very specific as to how these structures can exist in municipalities.

FINANCIAL CONSIDERATION: Permit fees would be established and collected for these types of uses.

LEGAL: The City has to comply with the new law either by choosing to accept it or by formally opting out.

DEPARTMENT/RESPONSIBLE PARTY: Bruce D. Peterson, AICP – Director of Planning and Development Services

Focus on New Laws: Temporary Family Health Care Dwellings

Cities and counties must issue permits for a new type of land use under this law, unless they take steps to opt out.

(Published Jun 13, 2016)

Chapter 111 ([Link to: https://www.revisor.mn.gov/laws/?year=2016&type=0&doctype=Chapter&id=111](https://www.revisor.mn.gov/laws/?year=2016&type=0&doctype=Chapter&id=111)) creates a new permit and permitting process that local governments must follow to allow a specific type of temporary transitional housing, unless the unit of local government takes official action by passing an ordinance to opt out of that program. Gov. Dayton signed the bill into law on May 12.

While the stated motivation behind passing the new law was to provide transitional housing for seniors, the statute itself does not include an age restriction for use of the structure. Anyone certified with needing assistance with two or more “instrumental activities of daily life” for mental or physical reasons may reside in a qualified temporary dwelling on the property where the “caregiver” or a “relative” resides.

Requirements of the law

The legislation is fairly complex in its requirements for both the permit application and the permit issuance, as well as for its regulations pertaining to compliant structures and eligible uses. Section 1 specifically excludes temporary family health care dwellings from the definition of “housing with services establishment,” exempting these temporary dwellings from the regulations and requirements set forth in Chapter 144D of the Minnesota Statutes.

Section 3 creates a new section in the Minnesota Land Use Planning Act (Minnesota Statutes, chapter 462), applying this new permit process for temporary family health care dwellings to cities. Section 2 of the new law also establishes the program for counties by creating a new section under Chapter 394 of the Minnesota Statutes. Finally, Section 4 of the law establishes Sept. 1, 2016, as the effective date.

What cities need to do

If your city leaders are comfortable with this program, you need to take no action to adopt it. However, by Sept. 1, your city does need to:

Be prepared to accept applications for permits under the new law.

Have an ordinance in place that establishes the permit fee (if the city decides to charge a fee different than the default fee).

Be ready to review and act on a submitted application within the specified timeline.

Specifically, under the new law, most cities have 15 days to grant or deny a submitted application. (Cities that regularly meet only once a month get 30 days to make their decision.) The law expressly waives the public hearing due to the private medical information involved and because of the immediate need for care. The law does not specify an appeal process related to permit decisions.

The permit is good for six months, with the option to renew once for an additional six months. The permit fee is set at \$100, with \$50 for a renewal; however, a city can choose to adopt, by ordinance, a different fee schedule.

If a city already has designated temporary family health care dwellings as a permitted use, this new law does not apply to that city. Likewise, if a city passes an ordinance specifically opting out of this statute, none of the provisions of the law apply to that community.

If your city wants to adopt a program that differs from the one specified in the new law, you should know that the law does not authorize partial adoption or modification of the program. Instead, your city would need to opt out of the entire law and then adopt a different ordinance that meets the city’s needs.

To help cities that would like to opt out of the statute, the League has developed a sample ordinance. The League has also created a frequently asked questions (FAQs) document.

View the sample opt-out ordinance (doc) ([Link to: http://www.lmc.org/media/document/1/temporaryfamilyhealthcaredwellings.docx](http://www.lmc.org/media/document/1/temporaryfamilyhealthcaredwellings.docx))

Get additional guidance from the League's FAQs (pdf) (*Link to:*

<http://www.lmc.org/media/document/1/temporaryfamilyhealthcaredwellingsfaq.pdf?inline=true>)

A section-by-section walk-through of the bill also will be included in the *2016 Law Summaries*, which will be available on the League website by the end of June.

Details of the law

If this law applies to your city and you don't plan to opt out, it's important to know the specific details of the law, including its effect on your existing land use controls, the criteria for a qualified temporary family health care dwelling, and the permit application requirements.

Effect on land use controls

Existing local controls related to accessory uses and the parking and storage of recreational vehicles cannot regulate or prevent placement of a unit that qualifies as a temporary family health care dwelling (see section 3, subdivision 2). Other local ordinances and setbacks, as well as applicable state and federal laws, do apply.

Section 3, subdivisions 5 and 6 set forth parameters for inspection, enforcement, and permit revocation. At any time, cities can request proof that the unit remains compliant with the requirements of the law. Cities can arrange an inspection at a reasonable time that is convenient for the caregiver, to verify that the unit is compliant, is occupied, and that the resident is the one named on the permit.

Temporary family health care dwelling criteria

Section 3, subdivision 2 specifically sets the criteria for a structure to be considered a qualified temporary family health care dwelling. These structures must:

Be primarily assembled at a location other than its site of installation.

Be no more than 300 gross square feet.

Not be attached to a permanent foundation.

Be universally designed and meet state-recognized accessibility standards.

Provide access to water and electric utilities, either by connecting to the utilities serving the principal dwelling on the lot or by other comparable means.

Have exterior materials that are compatible in composition, appearance, and durability to the exterior materials used in standard residential construction.

Have a minimum insulation rating of R-15.

Be able to be installed, removed, and transported by a one-ton pickup truck, a truck, or a truck tractor as defined in Minnesota Statutes, section 168.002.

Be built to either Minnesota Rules, chapter 1360 or 1361, and contain an Industrialized Buildings Commission seal and data plate or to American National Standards Institute Code 119.2, which is an industry definition of a recreational vehicle.

Be equipped with a backflow check valve.

Permit application requirements

A caregiver or a relative must submit a permit application to the city signed by the primary caregiver, the owner of the property on which the unit will be placed, and the resident of the property (if the owner does not reside there). The permit application requires a very specific list of information, including:

Applicant information. Name, address, and phone number of the property owner, the property resident (if different from the owner), and the primary caregiver for the qualified inhabitant of the unit.

Resident name. Only one person can reside in a temporary family health care dwelling and it must be the person named in the application.

Health care provider information. Proof of the provider network that will provide the primary care, respite care, or remote patient monitoring service.

Verification of need. Written certification of the need for assistance with two or more instrumental daily activities from a physician, physician’s assistant, or advanced practice registered nurse licensed to practice in Minnesota.

Septic service. An executed contract for septic service or management.

Neighbor notice. An affidavit that all adjacent property owners and residents have received notification of the application.

Site map. A general site map to show the location of existing structures and the proposed placement of the new unit. The placement must comply with the same setback requirements that apply to the primary residence and must allow septic service and emergency response access in a safe and timely manner.

Additionally, the law only allows one unit per lot and that unit must house only one resident, who must be the same person named in the application.

Get additional guidance from the League’s FAQs (pdf) *(Link to: <http://www.lmc.org/media/document/1/temporaryfamilyhealthcaredwellingsfaq.pdf?inline=true>)*

Read the current issue of the Cities Bulletin *(Link to: <http://www.lmc.org/page/1/cities-bulletin-newsletter.jsp>)*

* By posting you are agreeing to the LMC Comment Policy *(Link to: <http://www.lmc.org/page/1/comment-policy.jsp>)* .

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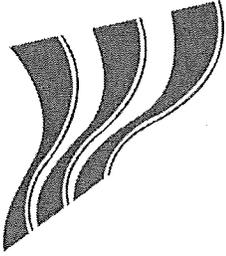
Contact Craig Johnson

IGR Representative

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320-235-8311

COUNCIL ACTION REQUEST

DATE: June 30, 2016

SUBJECT: LOGIS Fee Schedule Adjustment

RECOMMENDATION: To adjust the residential plan review fee from 40% to 65%.

BACKGROUND: The City last adjusted the fee schedule in any significant way in 1998. At that time, it was decided that all plan review fees be set at 65% to be consistent with the Building Code. A short time later, without taking formal action, the Council reduced the residential plan review fee to 40% with the understanding that it would be increased by 10% the following year and 15% the year after that to reach the 65% point. This has never occurred, although it has been briefly discussed in the past with no action taken. The time is right to increase this plan review fee so that we have consistency across the board. With our new LOGIS permitting software there will have to be special work performed to keep the plan review at the 40% level. The software is written to reflect the 65% as stipulated by the Building Code.

FINANCIAL CONSIDERATION: There will be minimal additional revenue created by this change. Minimal impact on overall permit fee.

LEGAL: The Building Code anticipates that all jurisdictions using the code will not only use its fee schedule, but also its plan review fee schedule.

DEPARTMENT/RESPONSIBLE PARTY: Bruce D. Peterson, AICP – Director of Planning and Development Services



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MEMORANDUM

TO: Bruce Peterson, Director of Planning and Development Services

FROM: Randy Kardell, Building Official *RK*

DATE: June 22, 2016

RE: Fee Schedule

When the current fee schedule was adopted by the City Council there were provisions to increase the 40% residential plan review fee yearly, until 65% fee was reached. I believe the initial fee adjustments were in 1998. The plan review fee was to increase by 10% the next year and 15% the following year. I have never seen any resolution or document that would keep the 40% plan review as a permanent fee. This needs to be brought up to the current fee schedule.

Please contact me if you have any questions.