

REQUEST Text Amendment to Table 9.101, Sections 2.201 and 12.420

SUMMARY OF PETITION The petition proposes to:
 1) add a new definition for “temporary family health care structure”;
 2) allow the use with prescribed conditions in the single family zoning districts, as an accessory use to a single family detached dwelling located on the same lot; and
 3) add prescribed conditions for the use.

PETITIONER Charlotte-Mecklenburg Planning Department
AGENT/REPRESENTATIVE Charlotte-Mecklenburg Planning Department

COMMUNITY MEETING A meeting is not required.

STATEMENT OF CONSISTENCY This petition is found to be consistent with the *Centers, Corridors and Wedges Growth Framework* goal to provide quality housing choices to a diverse range of people with different housing needs, based on information from the staff analysis and the public hearing, and because:

- The proposed text amendment mirrors the definition in State legislation for temporary health care structures, and matches the requirements and prescribed conditions set by the State.

However, this petition is found to not be reasonable and in the public interest, based on the information from the staff analysis and the public hearing, and because:

- There are many concerns around the initial approval of a permit and the enforcement of the requirements;

By a 6-1 vote of the Zoning Committee (motion by Commissioner Nelson seconded by Commissioner Eschert).

ZONING COMMITTEE ACTION The Zoning Committee voted 6-1 to recommend **DENIAL** of this petition.

VOTE

Motion/Second:	Wiggins/Nelson
Yeas:	Dodson, Eschert, Labovitz, Nelson, Sullivan and Wiggins
Nays:	Lathrop
Absent:	None
Recused:	None

ZONING COMMITTEE DISCUSSION

The Chairman summarized the Zoning Committee discussion from the July 29, 2015 meeting, and indicated that whether or not the text amendment to the Zoning Ordinance was adopted, temporary health care structures would be allowed, as per State law.

Committee discussion centered on concerns related to design review; initial application processing; enforcement issues; homeowner association covenants; and the fact that accessory dwelling units are already allowed in the Zoning Ordinance for this type of use in single family neighborhoods.

A Commissioner asked why the City would want to add this to the Zoning Ordinance. Staff replied that the use is permitted by State law, and it benefits the public by knowing that a temporary health care structure is allowed, by mirroring the language in the Zoning Ordinance. There was no further discussion.

STAFF OPINION Staff disagrees with the recommendation of the majority of the Zoning Committee. The text amendment mirrors the definition in the State legislation for temporary health care structures, and matches the

requirements and prescribed conditions set by the State. Staff supports the amendment so that the Zoning Ordinance and the State legislation are identical.

FINAL STAFF ANALYSIS
(Pre-Hearing Analysis online at www.rezoning.org)

PLANNING STAFF REVIEW

• **Background**

- New North Carolina legislation relating to zoning provisions for temporary health care structures was approved on August 1, 2014.
- This text amendment mirrors the definition in the legislation, and matches the requirements and prescribed conditions set by the State.

• **Proposed Request Details**

The text amendment contains the following provisions:

- Adds a new definition for temporary family health care structure.
- Allows temporary family health care structures as an allowable accessory use in the single family zoning districts (R-3, R-4, R-5, R-6, and R-8), with prescribed conditions:
 - The applicant must obtain a zoning permit, which is valid for one year, and renewable with a written recertification from a licensed North Carolina physician. The following documentation must accompany the application:
 - Documentation as to the relationship between the occupant of the temporary family health care structure and the occupant(s) of the existing single family detached dwelling on the lot. One of the following types of relationship must exist:
 - First or second degree relative: a spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, or niece. This includes half, step, and in-law relationships;
 - Relationship by marriage; or
 - Legal guardian designated by a court of law.
 - Written certification from a physician that is licensed to practice in North Carolina, stating the necessity of direct care for a mentally or physically impaired individual, who is a resident of North Carolina and who requires assistance with two or more activities of daily living: bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting and eating.
 - Only one temporary family health care structure shall be permitted per lot.
 - The caregiver shall reside in the single family detached dwelling located on the same lot as the temporary family health care structure. The caregiver shall be a person who is 18 years of age or older and who: 1) provides care for a mentally or physically impaired person; and 2) is a first or second degree relative of the mentally or physically impaired person for whom the individual is caring, or a legal guardian of the mentally or physically impaired person.
 - The structure shall:
 - Comply with all setback and yard requirements associated with the principal structure.
 - Be limited to a maximum of 300 square feet of gross floor area.
 - Not be installed on a permanent foundation.
 - Be connected to the water, sewer, and electric utilities that are serving the principal dwelling on the lot.
 - No signage or advertisement shall be permitted on the exterior of the structure or on the property.
 - The use shall comply with all applicable state and local ordinances.
 - Approved temporary family health care structures shall be removed no later than 60 days after the time the mentally or physically impaired person is no longer receiving assistance or is no longer in need of assistance. If the structure is needed for a different impaired individual during the permit period, a new physician certification is required to be submitted to Neighborhood & Business Services.
- **Public Plans and Policies**
 - This petition is consistent with the *Centers, Corridors and Wedges Growth Framework* goal to provide quality housing choices to a diverse range of people with different housing needs.

DEPARTMENT COMMENTS (see full department reports online)

- **Charlotte Area Transit System:** No comments received.
 - **Charlotte Department of Neighborhood & Business Services:** No issues.
 - **Transportation:** No issues.
 - **Charlotte Fire Department:** No comments received.
 - **Charlotte-Mecklenburg Schools:** Not applicable.
 - **Charlotte-Mecklenburg Storm Water Services:** No issues.
 - **Engineering and Property Management:** No issues.
 - **Mecklenburg County Land Use and Environmental Services Agency:** No issues.
 - **Mecklenburg County Parks and Recreation Department:** No issues.
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OUTSTANDING ISSUES

- No issues.
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Attachments Online at www.rezoning.org

- Application
- Pre-Hearing Staff Analysis
- Department Comments
 - Charlotte Department of Neighborhood & Business Services Review
 - Transportation Review
 - Charlotte-Mecklenburg Storm Water Services Review
 - Engineering and Property Management Review
 - Mecklenburg County Land Use and Environmental Services Agency Review
 - Mecklenburg County Parks and Recreation Review

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