

TEMPORARY FAMILY HEALTH CARE DWELLINGS

PROJECT REVIEW

Project Summary/Issues

A Minnesota State law was recently enacted that requires cities to allow homeowners to obtain a permit to place a mobile residential dwelling structure on their property to serve as a "temporary health care dwelling." A temporary health care dwelling is a small (less than 300 sq. ft.) portable dwelling unit that can be placed in the yard or driveway of a single family residential lot to provide short-term care for an ailing relative. The new law has a provision that allows cities to opt-out of the temporary home health care permitting requirement. If an opt-out ordinance is not enacted prior to the law's effective date of September 1, 2016, a city would be required to allow the structures through a permitting process until such time as the opt-out ordinance is in effect.

Analyzing land use issues in light of family medical challenges is difficult to do without sounding uncaring. Staff is sensitive to the desire to provide temporary care housing for family members, but believes there are other options available that don't require placing a temporary structure on the driveway or rear yard for an extended period of time. The following is a list of issues staff has identified concerning Temporary Health Care Dwellings:

- Temporary health care dwellings are large structures that could be imposing on neighborhoods when placed either on a driveway or in the rear yard.
- This is an untested type of dwelling unit in Minnesota. Very few units are actually in use in Minnesota at this time.
- The permitting process may require the City to collect data that is private under the healthcare privacy laws.
- This State law would supersede City zoning authority.
- Temporary services would be connected to primary home with temporary, above-ground electrical cord and hose.
- The temporary dwelling's septic system would require regular pumping. Access to the rear of the yard behind the primary home to pump could be an issue.
- There are other options available to families.
- Many provisions of the zoning code are in conflict with these types of units: minimum home width, connection to City services, placed on a permanent foundation, and the fact that the units would be classified as a type of recreational vehicle.
- City Council's preference is to opt out of the State Law provisions, but to explore ways to assist families to care for ailing family members including expanding the provisions of the Accessory Unit Dwelling (AUD) ordinance.

When the public hearing was conducted on July 6, 2016, the Planning Commission received comments requesting that the City wait, allow a permit to be issued, and then opt-out later if the City determines the use is not acceptable. The City Attorney confirms that the City would be able to opt-out after the September 1 deadline; however, if a request for a temporary health care dwelling is received after September 1, 2016 a permit would have to be issued.

Testimony was also presented that a resident felt that this type of unit would have been beneficial for her circumstances in order to care for convalescing relatives. The Planning Commission noted that an accessory unit dwelling (AUD) is a permanent improvement while this type of structure is temporary. The resident noted that it would have taken time and money to construct an addition onto their home to accommodate the ailing family member. A drop home would have been an affordable and quickly deployed solution for her family.

As the baby boom generation ages, the need to be able to respond quickly to an emergency healthcare event will probably grow for Apple Valley families. The City is concerned that the use of these temporary structures is a new, untested type of structure that requires further research before permitting them in the City. Next Door Housing indicates it is conducting a pilot study at this time with three homes currently placed in Minnesota and five more in production. Staff is concerned that additional time is needed to study these dwellings and observe how they perform in the Minnesota climate. In the meantime, families can react quickly and provide care by using spare bedrooms, short-term care facilities, assisted living facilities, apartments, hotels and group homes. Another option would be to assist the family member by providing outside support care services so that the family member can remain in their current home.

Public Hearing Comments

1. **Families need to be able to provide short-term care to ailing family members quickly and affordably. The temporary home health care dwelling meets that need.** Staff response: Caring for aging and ailing elderly family members is a challenge for many families in Apple Valley. The need to be able to respond quickly to an emergency healthcare event will continue to be an issue that families will face. The City is concerned that the use of these temporary structures is a new, untested type of structure. Next Door Housing indicates it is conducting a pilot study at this time. Staff is concerned that additional time is needed to study these dwellings and observe how they perform in the Minnesota climate. In the meantime, families can react quickly and provide care by using spare bedrooms, short-term care facilities, assisted living facilities, apartments, hotels and group homes. Another option would be to assist the family member by providing outside support care services so that the family member can remain in their current home.
2. **It's difficult for families to construct additions onto the back of their homes. It takes time and money.** Staff response: Providing care does not necessarily require an addition to the home. Modifications and adaptations can be made to the interior of the home without expanding the footprint. When the accessory unit dwelling ordinance is reviewed this fall, staff expects that the City will look for best practices for modifying existing homes to care for family members. Funding sources to help with the cost of rehabbing the home will also be explored.
3. **An accessory unit dwelling (AUD) is a permanent improvement while a Temporary Health Care Dwelling is temporary. It's not a one-to-one comparison.** Staff response: That is true. However, there are other short-term solutions available that would not require a permanent improvement. See responses to #1 above.
4. **City process would have been lengthy, cost \$600, and even then the staff said they would probably not recommend approval.** Staff response: When the City was contacted earlier this year, staff was asked to determine whether these units could be placed in the City. When

the provisions of the zoning code and building code were reviewed, staff was not comfortable that these types of dwellings complied with the City requirements. A representative of Next Door Housing asked the staff whether an interim use permit (IUP) could be requested. An interim use permit is a permit for a special use that is not otherwise permitted in the zoning district and has a sunset date when the use must be discontinued. An IUP application fee is \$600 and requires a public hearing and notification of neighbors within 350' of the subject property. It likely would have taken 60 days at a minimum to process the IUP.

5. **The City doesn't need to rush into opting out. Why not give it a try and opt-out later?** **Staff response:** The City Attorney confirms that opting out later is an option. However, this housing product is not yet a tested option. Staff believe that opting out gives the City the option to study these dwellings further and if found to be a viable option, enact an ordinance later. In the meantime, the City retains its local land use control.
6. **These dwellings meet the IBC for Modular Homes Label and Fire Code 1192 for safety and viability of all temporary dwellings.** **Staff response:** The IBC in this case is the Industrialized Building Commission not the International Building Code. The City's Building Inspections Department concurred that a stamp is needed in order to transport and place a manufactured home. However, the City follows the International Building Code; the other IBC would be only advisory. The Fire Chief notes that the fire provision cited was from the National Fire Protection Association (NFPA) which is advisory for Apple Valley as well and not regulatory. The NFPA provision is related to recreational vehicles.

Email Correspondence

From: Ted Casady [REDACTED]
Date: July 18, 2016 at 10:51:13 AM CDT
To: <info@ci.apple-valley.mn.us>
Subject: **Objection to temporary healthcare dwelling ordinance**

City of Apple Valley-

While I understand the need to care for ailing relatives, as well as the costs that may be associated both with a commercialized assisted living as well as permanent home renovations in order to accommodate an ailing relative, it is in our City Council's best interest to Opt Out of the temporary home health care permitting requirement.

The new legislation does not address two vital issues that may arise from allowing temporary housing on a lot in Apple Valley.

1. Life expectancy can be estimated with many ailments we face today, however there is no guarantee that the relative will not require assisted living for longer than the legislation allows, which is 6 months with a one-time renewal of 6 months. How will the city handle a situation where the occupant outlives the medical professionals' expectations and would likely be even more in need of assisted living than when they entered 12 months prior. Is the city willing to put themselves in a position where they will not approve an additional 6-month permit?
2. If the occupant and/or main dwelling relative decide not to vacate or remove the temporary healthcare dwelling upon the 12 month allowed duration, will the city assist in removal/eviction of the temporary tenant and structure?

I see this legislation as a 'foot-in--the-door' tactic for a local company to sell these units as temporary and legal by skirting the current building codes and personal home renovation permit process. Once they have approval for 6-12 months the company (and customers of theirs) will petition for longer terms with the assumption that a city would not 'kick out' a tenant of these temporary units, especially with the state of health they would expect to be in.

Lastly, with the assisted living institutions currently available and/or being ushered through current Apple Valley planning and council meetings, I believe the city should be more interested in benchmarking or regulating the costs of our elderly entering those homes. We should look to make those sorts of options financially suitable before looking to essentially drop a trailer on someone's property for 6-12 or more months.

I thank you for your time and look forward to the future discussions on the legislation of this proposal.

Ted Casady
[REDACTED]