

4865

2011-2012 Regular Sessions

I N   S E N A T E

April 27, 2011

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Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the town law, the village law and the general city law, in relation to zoning provisions for temporary family health care structures

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1     Section 1. The town law is amended by adding a new section 274-c to  
2 read as follows:  
3     S 274-C. ZONING PROVISIONS FOR TEMPORARY FAMILY HEALTH CARE STRUC-  
4 TURES. 1. FOR PURPOSES OF THIS SECTION:  
5     (A) "CAREGIVER" MEANS AN ADULT WHO PROVIDES CARE FOR A MENTALLY DISA-  
6 BLED OR PHYSICALLY IMPAIRED PERSON WITHIN THE STATE. A CAREGIVER SHALL  
7 BE EITHER RELATED BY BLOOD, MARRIAGE, OR ADOPTION TO OR THE LEGALLY  
8 APPOINTED GUARDIAN OF THE MENTALLY DISABLED OR PHYSICALLY IMPAIRED  
9 PERSON FOR WHOM HE OR SHE IS CARING.  
10     (B) "PHYSICALLY IMPAIRED PERSON" MEANS A PERSON WHO IS A RESIDENT OF  
11 THE STATE AND WHO REQUIRES ASSISTANCE WITH TWO OR MORE ACTIVITIES OF  
12 DAILY LIVING AS CERTIFIED IN A STATEMENT OF A PHYSICIAN DULY LICENSED TO  
13 PRACTICE MEDICINE.  
14     (C) "MENTALLY DISABLED PERSON" MEANS A PERSON WITH A MENTAL ILLNESS,  
15 MENTAL RETARDATION, DEVELOPMENTAL DISABILITY, ALCOHOLISM, SUBSTANCE  
16 DEPENDENCE, OR CHEMICAL DEPENDENCE AS DEFINED IN SUBDIVISION THREE OF  
17 SECTION 1.03 OF THE MENTAL HYGIENE LAW.  
18     (D) "TEMPORARY FAMILY HEALTH CARE STRUCTURE" MEANS A TRANSPORTABLE  
19 RESIDENTIAL STRUCTURE, PROVIDING AN ENVIRONMENT FACILITATING A  
20 CAREGIVER'S PROVISION OF CARE FOR A MENTALLY DISABLED OR PHYSICALLY  
21 IMPAIRED PERSON, THAT (I) IS PRIMARILY ASSEMBLED AT A LOCATION OTHER  
22 THAN ITS SITE OF INSTALLATION, (II) IS LIMITED TO ONE OCCUPANT WHO SHALL  
23 BE THE MENTALLY DISABLED OR PHYSICALLY IMPAIRED PERSON, (III) HAS NO  
24 MORE THAN THREE HUNDRED GROSS SQUARE FEET, AND (IV) COMPLIES WITH APPLI-

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD01120-01-1

1 CABLE PROVISIONS OF SECTION ONE HUNDRED THIRTY OF THIS CHAPTER. PLACING  
2 THE TEMPORARY FAMILY HEALTH CARE STRUCTURE ON A PERMANENT FOUNDATION  
3 SHALL NOT BE REQUIRED OR PERMITTED.

4 2. ZONING ORDINANCES FOR ALL PURPOSES SHALL CONSIDER TEMPORARY FAMILY  
5 HEALTH CARE STRUCTURES FOR USE BY A CAREGIVER IN PROVIDING CARE FOR A  
6 MENTALLY DISABLED OR PHYSICALLY IMPAIRED PERSON AND ON PROPERTY OWNED OR  
7 OCCUPIED BY THE CAREGIVER AS HIS OR HER RESIDENCE AS A PERMITTED ACCES-  
8 SORY FOR USE IN ANY SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT ON LOTS  
9 ZONED FOR SINGLE-FAMILY DETACHED DWELLINGS. SUCH STRUCTURES SHALL NOT  
10 REQUIRE A SPECIAL USE PERMIT OR BE SUBJECTED TO ANY OTHER LOCAL REQUIRE-  
11 MENTS BEYOND THOSE IMPOSED UPON OTHER AUTHORIZED ACCESSORY STRUCTURES,  
12 EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION. SUCH STRUCTURES SHALL  
13 COMPLY WITH ALL SETBACK REQUIREMENTS THAT APPLY TO THE PRIMARY STRUCTURE  
14 AND WITH ANY MAXIMUM FLOOR AREA RATION LIMITATIONS THAT MAY APPLY TO THE  
15 PRIMARY STRUCTURE. ONLY ONE FAMILY HEALTH CARE STRUCTURE SHALL BE  
16 ALLOWED ON A LOT OR PARCEL OF LAND.

17 3. ANY PERSON PROPOSING TO INSTALL A TEMPORARY FAMILY HEALTH CARE  
18 STRUCTURE SHALL FIRST OBTAIN A PERMIT FROM THE PLANNING BOARD OR SUCH  
19 OTHER ADMINISTRATIVE BODY, FOR WHICH THE LOCALITY MAY CHARGE A UNIFORM  
20 FEE OF UP TO ONE HUNDRED DOLLARS. THE LOCALITY MAY NOT WITHHOLD SUCH  
21 PERMIT IF THE APPLICANT PROVIDES SUFFICIENT PROOF OF COMPLIANCE WITH  
22 THIS SECTION. THE LOCALITY MAY REQUIRE THAT THE APPLICANT PROVIDE  
23 EVIDENCE OF COMPLIANCE WITH THIS SECTION ON AN ANNUAL BASIS AS LONG AS  
24 THE TEMPORARY FAMILY HEALTH CARE STRUCTURE REMAINS ON THE PROPERTY. SUCH  
25 EVIDENCE MAY INVOLVE THE INSPECTION BY THE LOCALITY OF THE TEMPORARY  
26 FAMILY HEALTH CARE STRUCTURE AT REASONABLE TIMES CONVENIENT TO THE CARE-  
27 GIVER, NOT LIMITED TO ANY ANNUAL COMPLIANCE CONFIRMATION.

28 4. ANY TEMPORARY FAMILY HEALTH CARE STRUCTURE INSTALLED PURSUANT TO  
29 THIS SECTION MAY BE REQUIRED TO CONNECT TO ANY WATER, SEWER, AND ELEC-  
30 TRIC UTILITIES THAT ARE SERVING THE PRIMARY RESIDENCE ON THE PROPERTY  
31 AND SHALL COMPLY WITH ALL APPLICABLE REQUIREMENTS OF SECTION ONE HUNDRED  
32 THIRTY OF THIS CHAPTER.

33 5. NO SIGNAGE ADVERTISING OR OTHERWISE PROMOTING THE EXISTENCE OF THE  
34 STRUCTURE SHALL BE PERMITTED EITHER ON THE EXTERIOR OF THE TEMPORARY  
35 FAMILY HEALTH CARE STRUCTURE OR ELSEWHERE ON THE PROPERTY.

36 6. ANY TEMPORARY FAMILY HEALTH CARE STRUCTURE INSTALLED PURSUANT TO  
37 THIS SECTION SHALL BE REMOVED WITHIN THIRTY DAYS AFTER THE MENTALLY  
38 DISABLED OR PHYSICALLY IMPAIRED PERSON IS NO LONGER RECEIVING OR IS NO  
39 LONGER IN NEED OF THE ASSISTANCE PROVIDED FOR IN THIS SECTION.

40 7. THE PLANNING BOARD OR OTHER SUCH ADMINISTRATIVE BODY MAY REVOKE THE  
41 PERMIT GRANTED PURSUANT TO SUBDIVISION THREE OF THIS SECTION IF THE  
42 PERMIT HOLDER VIOLATES ANY PROVISION OF THIS SECTION. ADDITIONALLY, THE  
43 LOCAL GOVERNING BODY MAY SEEK INJUNCTIVE RELIEF OR OTHER APPROPRIATE  
44 ACTIONS OR PROCEEDINGS TO ENSURE COMPLIANCE WITH THIS SECTION. THE  
45 PLANNING BOARD OR OTHER SUCH ADMINISTRATIVE BODY IS VESTED WITH ALL  
46 NECESSARY AUTHORITY ON BEHALF OF THE GOVERNING BODY OF THE LOCALITY TO  
47 ENSURE COMPLIANCE WITH THIS SECTION.

48 S 2. The village law is amended by adding a new section 7-725-c to  
49 read as follows:

50 S 7-725-C ZONING PROVISIONS FOR TEMPORARY FAMILY HEALTH CARE STRUC-  
51 TURES. 1. FOR PURPOSES OF THIS SECTION:

52 (A) "CAREGIVER" MEANS AN ADULT WHO PROVIDES CARE FOR A MENTALLY DISA-  
53 BLED OR PHYSICALLY IMPAIRED PERSON WITHIN THE STATE. A CAREGIVER SHALL  
54 BE EITHER RELATED BY BLOOD, MARRIAGE, OR ADOPTION TO OR THE LEGALLY  
55 APPOINTED GUARDIAN OF THE MENTALLY DISABLED OR PHYSICALLY IMPAIRED  
56 PERSON FOR WHOM HE OR SHE IS CARING.

1 (B) "PHYSICALLY IMPAIRED PERSON" MEANS A PERSON WHO IS A RESIDENT OF  
2 THE STATE AND WHO REQUIRES ASSISTANCE WITH TWO OR MORE ACTIVITIES OF  
3 DAILY LIVING AS CERTIFIED IN A STATEMENT OF A PHYSICIAN DULY LICENSED TO  
4 PRACTICE MEDICINE.

5 (C) "MENTALLY DISABLED PERSON" MEANS A PERSON WITH A MENTAL ILLNESS,  
6 MENTAL RETARDATION, DEVELOPMENTAL DISABILITY, ALCOHOLISM, SUBSTANCE  
7 DEPENDENCE, OR CHEMICAL DEPENDENCE AS DEFINED IN SUBDIVISION THREE OF  
8 SECTION 1.03 OF THE MENTAL HYGIENE LAW.

9 (D) "TEMPORARY FAMILY HEALTH CARE STRUCTURE" MEANS A TRANSPORTABLE  
10 RESIDENTIAL STRUCTURE, PROVIDING AN ENVIRONMENT FACILITATING A  
11 CAREGIVER'S PROVISION OF CARE FOR A MENTALLY DISABLED OR PHYSICALLY  
12 IMPAIRED PERSON, THAT (I) IS PRIMARILY ASSEMBLED AT A LOCATION OTHER  
13 THAN ITS SITE OF INSTALLATION, (II) IS LIMITED TO ONE OCCUPANT WHO SHALL  
14 BE THE MENTALLY DISABLED OR PHYSICALLY IMPAIRED PERSON, (III) HAS NO  
15 MORE THAN THREE HUNDRED GROSS SQUARE FEET, AND (IV) COMPLIES WITH APPLI-  
16 CABLE PROVISIONS OF SECTION 7-700 OF THIS ARTICLE. PLACING THE TEMPORARY  
17 FAMILY HEALTH CARE STRUCTURE ON A PERMANENT FOUNDATION SHALL NOT BE  
18 REQUIRED OR PERMITTED.

19 2. ZONING ORDINANCES FOR ALL PURPOSES SHALL CONSIDER TEMPORARY FAMILY  
20 HEALTH CARE STRUCTURES FOR USE BY A CAREGIVER IN PROVIDING CARE FOR A  
21 MENTALLY DISABLED OR PHYSICALLY IMPAIRED PERSON AND ON PROPERTY OWNED OR  
22 OCCUPIED BY THE CAREGIVER AS HIS OR HER RESIDENCE AS A PERMITTED ACCES-  
23 SORY FOR USE IN ANY SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT ON LOTS  
24 ZONED FOR SINGLE-FAMILY DETACHED DWELLINGS. SUCH STRUCTURES SHALL NOT  
25 REQUIRE A SPECIAL USE PERMIT OR BE SUBJECTED TO ANY OTHER LOCAL REQUIRE-  
26 MENTS BEYOND THOSE IMPOSED UPON OTHER AUTHORIZED ACCESSORY STRUCTURES,  
27 EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION. SUCH STRUCTURES SHALL  
28 COMPLY WITH ALL SETBACK REQUIREMENTS THAT APPLY TO THE PRIMARY STRUCTURE  
29 AND WITH ANY MAXIMUM FLOOR AREA RATION LIMITATIONS THAT MAY APPLY TO THE  
30 PRIMARY STRUCTURE. ONLY ONE FAMILY HEALTH CARE STRUCTURE SHALL BE  
31 ALLOWED ON A LOT OR PARCEL OF LAND.

32 3. ANY PERSON PROPOSING TO INSTALL A TEMPORARY FAMILY HEALTH CARE  
33 STRUCTURE SHALL FIRST OBTAIN A PERMIT FROM THE PLANNING BOARD OR SUCH  
34 OTHER ADMINISTRATIVE BODY, FOR WHICH THE LOCALITY MAY CHARGE A UNIFORM  
35 FEE OF UP TO ONE HUNDRED DOLLARS. THE LOCALITY MAY NOT WITHHOLD SUCH  
36 PERMIT IF THE APPLICANT PROVIDES SUFFICIENT PROOF OF COMPLIANCE WITH  
37 THIS SECTION. THE LOCALITY MAY REQUIRE THAT THE APPLICANT PROVIDE  
38 EVIDENCE OF COMPLIANCE WITH THIS SECTION ON AN ANNUAL BASIS AS LONG AS  
39 THE TEMPORARY FAMILY HEALTH CARE STRUCTURE REMAINS ON THE PROPERTY. SUCH  
40 EVIDENCE MAY INVOLVE THE INSPECTION BY THE LOCALITY OF THE TEMPORARY  
41 FAMILY HEALTH CARE STRUCTURE AT REASONABLE TIMES CONVENIENT TO THE CARE-  
42 GIVER, NOT LIMITED TO ANY ANNUAL COMPLIANCE CONFIRMATION.

43 4. ANY TEMPORARY FAMILY HEALTH CARE STRUCTURE INSTALLED PURSUANT TO  
44 THIS SECTION MAY BE REQUIRED TO CONNECT TO ANY WATER, SEWER, AND ELEC-  
45 TRIC UTILITIES THAT ARE SERVING THE PRIMARY RESIDENCE ON THE PROPERTY  
46 AND SHALL COMPLY WITH ALL APPLICABLE REQUIREMENTS OF SECTIONS 11-1112  
47 AND 14-1438 OF THIS CHAPTER.

48 5. NO SIGNAGE ADVERTISING OR OTHERWISE PROMOTING THE EXISTENCE OF THE  
49 STRUCTURE SHALL BE PERMITTED EITHER ON THE EXTERIOR OF THE TEMPORARY  
50 FAMILY HEALTH CARE STRUCTURE OR ELSEWHERE ON THE PROPERTY.

51 6. ANY TEMPORARY FAMILY HEALTH CARE STRUCTURE INSTALLED PURSUANT TO  
52 THIS SECTION SHALL BE REMOVED WITHIN THIRTY DAYS AFTER THE MENTALLY  
53 DISABLED OR PHYSICALLY IMPAIRED PERSON IS NO LONGER RECEIVING OR IS NO  
54 LONGER IN NEED OF THE ASSISTANCE PROVIDED FOR IN THIS SECTION.

55 7. THE PLANNING BOARD OR OTHER SUCH ADMINISTRATIVE BODY MAY REVOKE THE  
56 PERMIT GRANTED PURSUANT TO SUBDIVISION THREE OF THIS SECTION IF THE

1 PERMIT HOLDER VIOLATES ANY PROVISION OF THIS SECTION. ADDITIONALLY, THE  
2 LOCAL GOVERNING BODY MAY SEEK INJUNCTIVE RELIEF OR OTHER APPROPRIATE  
3 ACTIONS OR PROCEEDINGS TO ENSURE COMPLIANCE WITH THIS SECTION. THE  
4 PLANNING BOARD OR OTHER SUCH ADMINISTRATIVE BODY IS VESTED WITH ALL  
5 NECESSARY AUTHORITY ON BEHALF OF THE GOVERNING BODY OF THE LOCALITY TO  
6 ENSURE COMPLIANCE WITH THIS SECTION.

7 S 3. The general city law is amended by adding a new section 82 to  
8 read as follows:

9 S 82. ZONING PROVISIONS FOR TEMPORARY FAMILY HEALTH CARE STRUCTURES.  
10 1. FOR PURPOSES OF THIS SECTION:

11 (A) "CAREGIVER" MEANS AN ADULT WHO PROVIDES CARE FOR A MENTALLY DISA-  
12 BLED OR PHYSICALLY IMPAIRED PERSON WITHIN THE STATE. A CAREGIVER SHALL  
13 BE EITHER RELATED BY BLOOD, MARRIAGE, OR ADOPTION TO OR THE LEGALLY  
14 APPOINTED GUARDIAN OF THE MENTALLY DISABLED OR PHYSICALLY IMPAIRED  
15 PERSON FOR WHOM HE OR SHE IS CARING.

16 (B) "PHYSICALLY IMPAIRED PERSON" MEANS A PERSON WHO IS A RESIDENT OF  
17 THE STATE AND WHO REQUIRES ASSISTANCE WITH TWO OR MORE ACTIVITIES OF  
18 DAILY LIVING AS CERTIFIED IN A STATEMENT OF A PHYSICIAN DULY LICENSED TO  
19 PRACTICE MEDICINE.

20 (C) "MENTALLY DISABLED PERSON" MEANS A PERSON WITH A MENTAL ILLNESS,  
21 MENTAL RETARDATION, DEVELOPMENTAL DISABILITY, ALCOHOLISM, SUBSTANCE  
22 DEPENDENCE, OR CHEMICAL DEPENDENCE AS DEFINED IN SUBDIVISION THREE OF  
23 SECTION 1.03 OF THE MENTAL HYGIENE LAW.

24 (D) "TEMPORARY FAMILY HEALTH CARE STRUCTURE" MEANS A TRANSPORTABLE  
25 RESIDENTIAL STRUCTURE, PROVIDING AN ENVIRONMENT FACILITATING A  
26 CAREGIVER'S PROVISION OF CARE FOR A MENTALLY DISABLED OR PHYSICALLY  
27 IMPAIRED PERSON, THAT (I) IS PRIMARILY ASSEMBLED AT A LOCATION OTHER  
28 THAN ITS SITE OF INSTALLATION, (II) IS LIMITED TO ONE OCCUPANT WHO SHALL  
29 BE THE MENTALLY DISABLED OR PHYSICALLY IMPAIRED PERSON, (III) HAS NO  
30 MORE THAN THREE HUNDRED GROSS SQUARE FEET, AND (IV) COMPLIES WITH APPLI-  
31 CABLE PROVISIONS OF SUBDIVISIONS TWENTY-FOUR AND TWENTY-FIVE OF SECTION  
32 TWENTY OF THIS CHAPTER. PLACING THE TEMPORARY FAMILY HEALTH CARE STRUC-  
33 TURE ON A PERMANENT FOUNDATION SHALL NOT BE REQUIRED OR PERMITTED.

34 2. ZONING ORDINANCES FOR ALL PURPOSES SHALL CONSIDER TEMPORARY FAMILY  
35 HEALTH CARE STRUCTURES FOR USE BY A CAREGIVER IN PROVIDING CARE FOR A  
36 MENTALLY DISABLED OR PHYSICALLY IMPAIRED PERSON AND ON PROPERTY OWNED OR  
37 OCCUPIED BY THE CAREGIVER AS HIS OR HER RESIDENCE AS A PERMITTED ACCES-  
38 SORY FOR USE IN ANY SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT ON LOTS  
39 ZONED FOR SINGLE-FAMILY DETACHED DWELLINGS. SUCH STRUCTURES SHALL NOT  
40 REQUIRE A SPECIAL USE PERMIT OR BE SUBJECTED TO ANY OTHER LOCAL REQUIRE-  
41 MENTS BEYOND THOSE IMPOSED UPON OTHER AUTHORIZED ACCESSORY STRUCTURES,  
42 EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION. SUCH STRUCTURES SHALL  
43 COMPLY WITH ALL SETBACK REQUIREMENTS THAT APPLY TO THE PRIMARY STRUCTURE  
44 AND WITH ANY MAXIMUM FLOOR AREA RATION LIMITATIONS THAT MAY APPLY TO THE  
45 PRIMARY STRUCTURE. ONLY ONE FAMILY HEALTH CARE STRUCTURE SHALL BE  
46 ALLOWED ON A LOT OR PARCEL OF LAND.

47 3. ANY PERSON PROPOSING TO INSTALL A TEMPORARY FAMILY HEALTH CARE  
48 STRUCTURE SHALL FIRST OBTAIN A PERMIT FROM THE PLANNING BOARD OR SUCH  
49 OTHER ADMINISTRATIVE BODY, FOR WHICH THE LOCALITY MAY CHARGE A UNIFORM  
50 FEE OF UP TO ONE HUNDRED DOLLARS. THE LOCALITY MAY NOT WITHHOLD SUCH  
51 PERMIT IF THE APPLICANT PROVIDES SUFFICIENT PROOF OF COMPLIANCE WITH  
52 THIS SECTION. THE LOCALITY MAY REQUIRE THAT THE APPLICANT PROVIDE  
53 EVIDENCE OF COMPLIANCE WITH THIS SECTION ON AN ANNUAL BASIS AS LONG AS  
54 THE TEMPORARY FAMILY HEALTH CARE STRUCTURE REMAINS ON THE PROPERTY. SUCH  
55 EVIDENCE MAY INVOLVE THE INSPECTION BY THE LOCALITY OF THE TEMPORARY

1 FAMILY HEALTH CARE STRUCTURE AT REASONABLE TIMES CONVENIENT TO THE CARE-  
2 GIVER, NOT LIMITED TO ANY ANNUAL COMPLIANCE CONFIRMATION.

3 4. ANY TEMPORARY FAMILY HEALTH CARE STRUCTURE INSTALLED PURSUANT TO  
4 THIS SECTION MAY BE REQUIRED TO CONNECT TO ANY WATER, SEWER, AND ELEC-  
5 TRIC UTILITIES THAT ARE SERVING THE PRIMARY RESIDENCE ON THE PROPERTY  
6 AND SHALL COMPLY WITH ALL APPLICABLE REQUIREMENTS OF SECTIONS TWENTY AND  
7 FIFTY-THREE OF THIS CHAPTER.

8 5. NO SIGNAGE ADVERTISING OR OTHERWISE PROMOTING THE EXISTENCE OF THE  
9 STRUCTURE SHALL BE PERMITTED EITHER ON THE EXTERIOR OF THE TEMPORARY  
10 FAMILY HEALTH CARE STRUCTURE OR ELSEWHERE ON THE PROPERTY.

11 6. ANY TEMPORARY FAMILY HEALTH CARE STRUCTURE INSTALLED PURSUANT TO  
12 THIS SECTION SHALL BE REMOVED WITHIN THIRTY DAYS AFTER THE MENTALLY  
13 DISABLED OR PHYSICALLY IMPAIRED PERSON IS NO LONGER RECEIVING OR IS NO  
14 LONGER IN NEED OF THE ASSISTANCE PROVIDED FOR IN THIS SECTION.

15 7. THE PLANNING BOARD OR OTHER SUCH ADMINISTRATIVE BODY MAY REVOKE THE  
16 PERMIT GRANTED PURSUANT TO SUBDIVISION THREE OF THIS SECTION IF THE  
17 PERMIT HOLDER VIOLATES ANY PROVISION OF THIS SECTION. ADDITIONALLY, THE  
18 LOCAL GOVERNING BODY MAY SEEK INJUNCTIVE RELIEF OR OTHER APPROPRIATE  
19 ACTIONS OR PROCEEDINGS TO ENSURE COMPLIANCE WITH THIS SECTION. THE  
20 PLANNING BOARD OR OTHER SUCH ADMINISTRATIVE BODY IS VESTED WITH ALL  
21 NECESSARY AUTHORITY ON BEHALF OF THE GOVERNING BODY OF THE LOCALITY TO  
22 ENSURE COMPLIANCE WITH THIS SECTION.

23 S 4. This act shall take effect immediately.