

4865

2011-2012 Regular Sessions

I N S E N A T E

April 27, 2011

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.