



Planning and Inspections Department

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MEMO

To: Honorable Mayor and City Council
Thru: Brad Corcoran, City Manager
From: Kelly K. Stultz, AICP, Director
Subject: **Zoning Case Z-14-07**
Date: March 3, 2015

The City has received a zoning text amendment request from the Planning Board to amend Section 11.26(c)(3)(c)(1) of the City of Eden Zoning Ordinance regarding Temporary Use of a Manufactured Home and to add new Section 11.35 regarding Temporary Health Care Structures. Staff recommended that the text amendment be approved.

The Planning Board considered this request at their regular meeting on November 25, 2014, and recommended that the amendment be approved.

The Planning Board is reviewing this decision and considering the adoption of a consistency statement at a Special Planning Board meeting on March 17, 2015.

**PLANNING AND INSPECTIONS DEPARTMENT
ZONING TEXT AMENDMENT REPORT
October 9, 2014**

CASE NUMBER: Z-14-07

REQUESTED ACTION: To delete Section 11.26(c)(1) regarding Temporary Use of a Manufactured Home as a special use.
To add new Section 11.35 regarding Temporary Health Care Structures.

APPLICANT: Planning Board

EXISTING TEXT

Section 11.26(c)(1)

TEMPORARY USE OF A RESIDENTIAL MANUFACTURED HOME (CLASS 1, SPECIAL USE). In addition to any other requirements with respect to the Petition authorized to this Section, the Petition shall set forth following:

- (a) That one of the following types of relationships shall exist between the occupants of the manufactured home and the existing single family dwelling.
 - (i) Blood relationship.
 - (ii) Relationship by marriage.
 - (iii) Legal Guardian relationship designated by Court of Law.
- (b) A certificate in writing, from a licensed physician stating the necessity of direct custodial care because of age or poor health.
- (c) Floor plan of the existing single family unit showing there is no reasonable alternative based on the utilization the existing floor plan.
- (d) Site plan showing the location of the existing single family unit; the proposed manufactured home, driveway, parking area, sewage disposal facilities.
- (e) A statement for setting forth the length of time for which the request is made. Approval shall not exceed one (1) year.

The Board of Adjustment shall, prior to issuance of a Special Use Permit for temporary use of a residential manufactured home, find that such special use meets the following standards:

- (a) The relationship between the occupants of the single family unit and the manufactured home is established.

- (b) There is a certificate from a licensed physician stating the necessity of direct care.
- (c) The floor plan of the existing single family unit shows there is no reasonable alternative to the manufactured home.
- (d) The proposed site plan shows the location and setbacks of the existing single family unit, the manufactured home, and driveways and parking areas. The setbacks for all structures meet or exceed the requirements of the district in which the lot is located.
- (e) There shall be adequate lot area for each unit, according to the minimum requirements of the zoning district in which the lot is located.
- (f) Approval of the City of Eden water and sewerage services.
- (g) Approval of the application shall not exceed one (1) year from the date of issuance or until the need as stated in the application no longer exists, at which time the manufactured home will be removed from the site. Renewal shall constitute a new application.

PROPOSED TEXT

Section 11.26(c)(1)

(Delete Section)

EXISTING TEXT

Section 11.35

(None)

PROPOSED TEXT

Section 11.35 Zoning of Temporary Health Care Structures

- (a) The following definitions apply in this section:
 - (1) Activities of daily living: Bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.
 - (2) Caregiver: An individual 18 years of age or older who (i) provides care for a mentally or physically impaired person and (ii) is a first or second degree relative of the mentally or physically impaired person for whom the individual is caring.
 - (3) First or second degree relative: A spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, or niece and includes half, step, and in-law relationships.

- (4) Mentally or physically impaired person: A person who is a resident of this State and who requires assistance with two or more activities of daily living as certified in writing by a physician licensed to practice in this State.
- (5) Temporary family health care structure: A transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S.143-139.1(b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.
- (b) A city shall consider a temporary family health care structure used by a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by the caregiver as the caregiver's residence as a permitted accessory use in any single-family zoning district on lots zoned for single-family detached dwellings.
- (c) A city shall consider a temporary family health care structure used by an individual who is the named legal guardian of the mentally or physically impaired person a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings in accordance with this section if the temporary family health care structure is placed on the property of the residence of the individual and is used to provide care for the mentally or physically impaired person.
- (d) One temporary family health care structure shall be allowed on a lot or parcel of land. The temporary family health care structures under sections (b) and (c) of this section shall not require a special use permit or be subjected to any other local zoning requirements beyond those imposed upon other authorized accessory use structure, except as otherwise provided in this section. Such temporary family health care structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure.
- (e) Any person proposing to install a temporary family health care structure shall first obtain a permit from the city. The city may charge a fee of up to one hundred dollars (\$100) for the initial permit and an annual renewal fee of up to fifty dollars (\$50). The city may not withhold a permit if the applicant provides sufficient proof of compliance with this section. The city may require that the applicant provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. The evidence may involve the inspection by the city of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation, and annual renewal of the doctor's certification.
- (f) Notwithstanding subsection (i) of this section, any temporary family health care structure installed under this section may be required to connect to any water, sewer, and electric utilities serving the property and shall comply with all applicable State law, local ordinances, and other requirements, including Part 5 of this Article, as if the temporary family health care structure were permanent real property.
- (g) No signage advertising or otherwise promoting the existence of the temporary health care structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.

- (h) Any temporary family health care structure installed pursuant to this section shall be removed within 60 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of assistance provided for in this section. If the temporary family health care structure is needed for another mentally or physically impaired person, the temporary family health care structure may continue to be used, or may be reinstated on the property within 60 days of its removal, as applicable.
- (i) The city may revoke the permit granted pursuant to subsection (e) of this section if the permit holder violates any provision of this section or G.S. 160A-202. The city may seek injunctive relief or other appropriate actions or proceedings to ensure compliance with this section or G.S. 160A-202.
- (j) Temporary family health care structures shall be treated as tangible personal property for purposes of taxation.

GENERAL INFORMATION

This request was submitted by the Planning Board.

STAFF ANALYSIS

This amendment was initiated by the Planning Board in compliance with an amendment to Part 3 of Article 18 of Chapter 153A of the N.C. General Statutes.

Based upon the foregoing information, staff recommends in favor of the text amendment.

STAFF RECOMMENDATION:

Approval of the text amendment.

AN ORDINANCE AMENDING THE ZONING
ORDINANCE OF THE CITY OF EDEN

BE IT ORDAINED BY THE CITY COUNCIL of the City of Eden, North Carolina, that, after having fully complied with all legal requirements, including publication of notice of a public hearing and the holding of a public hearing relative thereto, the Zoning Ordinance of the City of Eden is hereby amended by deleting Section 11.26 Board of Adjustment subsection (c)(3)(c)(1) **TEMPORARY USE OF A RESIDENTIAL MANUFACTURED HOME (CLASS 1, SPECIAL USE)**.

APPROVED, ADOPTED AND EFFECTIVE, this 17th day of March, 2015.

CITY OF EDEN

BY: _____
Wayne R. Tuggle, Sr., Mayor

ATTEST:

Sheralene Thompson, CMC
City Clerk

AN ORDINANCE AMENDING THE ZONING
ORDINANCE OF THE CITY OF EDEN

BE IT ORDAINED BY THE CITY COUNCIL of the City of Eden, North Carolina, that, after having fully complied with all legal requirements, including publication of notice of a public hearing and the holding of a public hearing relative thereto, the Zoning Ordinance of the City of Eden is hereby amended by adding the following section:

SECTION 11.35 ZONING OF TEMPORARY HEALTH CARE STRUCTURES

(a) The following definitions apply in this section:

- (1) Activities of daily living: Bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.
- (2) Caregiver: An individual 18 years of age or older who (i) provides care for a mentally or physically impaired person and (ii) is a first or second degree relative of the mentally or physically impaired person for whom the individual is caring.
- (3) First or second degree relative: A spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, or niece and includes half, step, and in-law relationships.
- (4) Mentally or physically impaired person: A person who is a resident of this State and who requires assistance with two or more activities of daily living as certified in writing by a physician licensed to practice in this State.
- (5) Temporary family health care structure: A transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S.143-139.1(b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

(b) A city shall consider a temporary family health care structure used by a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by the caregiver as the caregiver's residence as a permitted accessory use in any single-family zoning district on lots zoned for single-family detached dwellings.

(c) A city shall consider a temporary family health care structure used by an individual who is the named legal guardian of the mentally or physically impaired person a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings in accordance with this section if the temporary

family health care structure is placed on the property of the residence of the individual and is used to provide care for the mentally or physically impaired person.

- (d) One temporary family health care structure shall be allowed on a lot or parcel of land. The temporary family health care structures under sections (b) and (c) of this section shall not require a special use permit or be subjected to any other local zoning requirements beyond those imposed upon other authorized accessory use structure, except as otherwise provided in this section. Such temporary family health care structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure.
- (e) Any person proposing to install a temporary family health care structure shall first obtain a permit from the city. The city may charge a fee of up to one hundred dollars (\$100) for the initial permit and an annual renewal fee of up to fifty dollars (\$50). The city may not withhold a permit if the applicant provides sufficient proof of compliance with this section. The city may require that the applicant provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. The evidence may involve the inspection by the city of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation, and annual renewal of the doctor's certification.
- (f) Notwithstanding subsection (i) of this section, any temporary family health care structure installed under this section may be required to connect to any water, sewer, and electric utilities serving the property and shall comply with all applicable State law, local ordinances, and other requirements, including Part 5 of this Article, as if the temporary family health care structure were permanent real property.
- (g) No signage advertising or otherwise promoting the existence of the temporary health care structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.
- (h) Any temporary family health care structure installed pursuant to this section shall be removed within 60 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of assistance provided for in this section. If the temporary family health care structure is needed for another mentally or physically impaired person, the temporary family health care structure may continue to be used, or may be reinstated on the property within 60 days of its removal, as applicable.
- (i) The city may revoke the permit granted pursuant to subsection (e) of this section if the permit holder violates any provision of this section or G.S. 160A-202. The city may seek injunctive relief or other appropriate actions or proceedings to ensure compliance with this section or G.S. 160A-202.

- (j) Temporary family health care structures shall be treated as tangible personal property for purposes of taxation.

APPROVED, ADOPTED AND EFFECTIVE, this 17th day of March, 2015.

CITY OF EDEN

BY: _____
Wayne R. Tuggle, Sr., Mayor

ATTEST:

Sheralene Thompson, CMC
City Clerk

A RESOLUTION ADOPTING A
STATEMENT OF CONSISTENCY REGARDING
PROPOSED AMENDMENT TO THE
CITY OF EDEN ZONING ORDINANCE
CASE NUMBER Z-14-07

WHEREAS, pursuant to North Carolina General Statutes Chapter 160A-383, prior to adoption or rejection of any zoning amendment, the Eden City Council is required to adopt a statement as to whether the amendment is consistent with the Land Development Plan and why the City Council considers the action taken to be reasonable and in the public interest; and

WHEREAS, on August 21, 2007, the Eden City Council adopted the Land Development Plan. Plans such as the City of Eden Land Development Plan are not designed to be static but are meant to reflect the City of Eden's needs, plans for future development and to remain in compliance with North Carolina State Law and the City of Eden's ordinances; and

WHEREAS, changes made to the North Carolina General Statutes during the 2014/2015 session of the General Assembly alter the manner in which the City of Eden and all other jurisdictions in the State of North Carolina regulate certain land uses; and

WHEREAS, the City of Eden Planning Board initiated an amendment to the Zoning Ordinance to comply with an amendment to Part 3 of Article 18 of Chapter 153A of the N.C. General Statutes pertaining to Temporary Health Care Structures; and

WHEREAS, On November 25, 2014, the City of Eden Planning Board voted to recommend approval of the amendment.

To delete **Section 11.26(c)(1)** regarding Temporary Use of a Manufactured Home as a special use; and to add **Section 11.35** regarding Zoning of Temporary Health Care Structures.

STATEMENT OF NEED:

The Zoning Ordinance currently allows Temporary Use of a Manufactured Home as a special use under certain conditions as approved by the Board of Adjustment. An amendment to Part 3 of Article 18 of Chapter 153A of the N.C. General Statutes during the 2014/2015 legislative session requires that Temporary Health Care Structures be allowed as a permitted accessory use under the requirements as set forth in the amendment.

STATEMENT OF CONSISTENCY.

Among the goals of the 2007 City of Eden Land Development Plan are to continue to preserve existing residential uses and neighborhoods, and to encourage opportunities for adequate, affordable, quality housing.

NOW THEREFORE, BE IT RESOLVED BY THE EDEN CITY COUNCIL THAT:

The Eden City Council finds that the proposed amendment to the City of Eden Zoning Ordinance is consistent with the goals and recommendations of the 2007 City of Eden Land Development Plan.

1. The Eden City Council finds that the proposed amendment to the City of Eden Zoning Ordinance is consistent with the goals and recommendations of the 2007 City of Eden Land Development Plan.
2. At no time are land use regulations or plans of the City of Eden, nor any jurisdiction in the State of North Carolina, permitted to be in violation of the North Carolina General Statutes.
3. Therefore, based upon the foregoing information, the amendment to the Zoning Ordinance is reasonable and in the public interest.

Approved, adopted and effective this 17th day of March, 2015

CITY OF EDEN

By _____
Wayne R. Tuggle, Sr., Mayor

ATTEST:

Sheralene Thompson, CMC
City Clerk