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DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

MEMORANDUM

TO: Virginia Building Officials

FROM: Emory Rodgers, Deputy Director
Division of Building & Fire Regulation

DATE: October 27, 2011

SUBJECT: Temporary Family Health Care Structures (TFHCS)

House Bill 1307 “*Zoning provisions for temporary family health care structures*” became effective July 1, 2010. The Code of Virginia was amended by adding section 15.2-2292.1; structures meeting the criteria of this zoning bill are allowed to be sited in all localities. The locality may not withhold a zoning permit if the applicant provides sufficient proof of compliance.

Our office has received numerous inquiries regarding the enforcement of the USBC in relation to these structures. Listed below is a summary of the parameters of this bill to assist the building code enforcement community in understanding the requirements of House Bill 1307.

DEFINITIONS

- **“Temporary family health care structure” (TFHCS)** defined as a structure to be used by a *Caregiver* to care for a mentally or physically impaired person.
- **“Caregiver”** defined as a person related by blood, marriage, adoption or legally appointed guardian, who provides care for a mentally or physically impaired person.
- **“Mentally or physically impaired person”** - Resident of Virginia who requires assistance with 2 or more activities of daily living, (bathing, dressing, toileting, transferring, bowel

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control, bladder control, and eating/feeding) and certified in writing by a Virginia licensed physician.

GENERAL REQUIREMENTS

- TFHCS is a transportable residential structure no more than 300 gross square feet that displays the *Virginia Registered Industrialized Label* complying with the Virginia Industrialized Building Safety Law (§36-70 et seq.) and the USBC (§36-97 et seq.).
- Only one TFHCS is allowed on a lot or parcel of land and is limited to one occupant who shall be the mentally or physically impaired person.
- The TFHCS does not require a special use zoning permit.
- The TFHCS is to be located on property owned or occupied by the caregiver as his residence, and reviewed as a permitted accessory use in any single-family residential zoning districts on lots zoned for single-family detached dwellings.
- The TFHCS is subject to only those local requirements imposed on other accessory structures.
- A permanent foundation shall not be required or permitted.
- The TFHCS shall comply with all setback requirements that apply to the primary structure.
- A person proposing to install a TFHCS shall obtain a zoning permit from the local governing body for which the locality may charge a fee of up to \$100.00. As an opinion of the AG's office this is the total limit for all charges between the application for and issuance of that permit.

Note: Attached is the opinion of Mr. Steve Jacks, Assistant Attorney General, Office of the Attorney General, Commonwealth of Virginia. Mr. Jack's opinion is not to be construed as legal advice for other state agencies, attorneys for the localities or the industry. The locality may contend to a judge that the \$100.00 does not include the typical fees for USBC inspections or CO's, etc. That contention is left up to the localities and ultimately to a circuit court judge and the locality should consult their City or County Attorney for clarification.

- The locality may require the applicant to provide evidence of compliance on an annual basis.
- The TFHCS may be required to connect to any water, sewer and electric utilities that are serving the primary residence and shall comply with applicable requirements of the Virginia Department of Health.
- The TFHCS shall be removed within 30 days of the impaired person no longer receiving or needing assistance.

WATER AND SEWAGE

The Virginia Department of Health (VDH) regulates septic design and alterations. The following information is supplied as basic guidelines for the required sewage disposal system and/or required potable water supply for Temporary Family Health Care Structures (TFHCS).

- When hooking a TFHCS to a public sewage disposal system or public water supply system contact the local *water and / or sewer purveyor*.
- VDH is the approving authority in most cases for sewage disposal system design and potable water supply system design.
- The basic sewage disposal system choices that require VDH approval are: Drain Fields, Pump & Haul systems, and basic private water supply systems.
- Pump & Haul permits, issued by VDH, are monitored by the locality; permits for temporary installation, less than 1-year or permanent for greater than 1-year; permanent requires locating underground or design approved by VDH, which includes an alarm system.
- A construction permit for a pump & haul issued by VDH may be issued *if* permitted by the AHJ of the locality due to the requirement for monitoring of the system by that locality.
- Tapping into an existing drain field may be an issue due to occupant load design of the existing system or grade level access to the existing system from the TFHCS. Any additions or alterations to the existing drain field require VDH approvals.
- Tapping in to the existing potable water system via an existing private well require VDH approvals.

If you need any additional assistance or have any questions regarding Industrialized Buildings, please contact Larry Brock at 804-786-1157 or larry.brock@dhcd.virginia.gov or Valrae Negley at 804-371-7182 or valrae.negley@dhcd.virginia.gov.