

1 10A NCAC 13K .1116 is proposed for readoption with substantive changes as follows:

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3 **10A NCAC 13K .1116 APPLICATION OF PHYSICAL PLANT REQUIREMENTS**

4 The physical ~~plan~~ plant requirements for each hospice residential facility or unit shall be applied as follows:

- 5 (1) New construction shall comply with all the requirements of ~~Section .1100 of this Subchapter; this~~  
6 Section;
- 7 (2) ~~Existing~~ Except where otherwise specified, existing buildings shall meet the licensure and code  
8 requirements in effect at the time of licensure, construction, ~~alteration~~ alteration, or ~~modification~~;  
9 modification.
- 10 (3) ~~New additions, alterations, modifications, and repairs shall meet the technical requirements of~~  
11 ~~Section .1100 of this Subchapter; however, where strict conformance with current requirements~~  
12 ~~would be impracticable, the authority having jurisdiction may approve alternative measures where~~  
13 ~~the facility can demonstrate to the Department's satisfaction that the alternative measures do not~~  
14 ~~reduce the safety or operating effectiveness of the facility;~~
- 15 (4)(3) Rules contained in ~~Rule .1109 of this Section~~ are minimum requirements and are not intended to  
16 prohibit buildings, ~~systems~~ systems, or operational conditions that exceed minimum ~~requirements~~;  
17 requirements.
- 18 (5)(4) ~~Equivalency: Alternate methods, procedures, design criteria, and functional variations from the~~  
19 ~~physical plant requirements, because of extraordinary circumstances, new programs, or unusual~~  
20 ~~conditions, may be approved by the authority having jurisdiction when the facility can effectively~~  
21 ~~demonstrate to the Department's satisfaction that the intent of the physical plant requirements are~~  
22 ~~met and that the variation does not reduce the safety or operational effectiveness of the facility; and~~  
23 The Division may grant an equivalency to allow alternate methods, procedures, design criteria or  
24 functional variation from the requirements of this Rule and the rules contained in this Section. The  
25 equivalency may be granted by the Division when a governing body submits a written equivalency  
26 request to the Division that states the following:
- 27 (a) the rule citation and the rule requirement that will not be met due to strict conformance  
28 with current requirements would be impractical, extraordinary circumstances, new  
29 programs, or unusual conditions;
- 30 (b) the justification for the equivalency; and
- 31 (c) how the proposed equivalency meets the intent of the corresponding rule requirement.
- 32 (5) In determining whether to grant an equivalency request the Division shall consider whether the  
33 request will reduce the safety and operational effectiveness of the facility. The governing body shall  
34 maintain a copy of the approved equivalence issued by the Division.
- 35 (6) Where ~~rules or codes~~ rules, codes, or standards have any conflict, the more stringent requirement  
36 shall apply.

- 1 *History Note:* *Authority G.S. 131E-202;*
- 2 *Eff. February 1, ~~1996~~ 1996;*
- 3 *Readopted Eff. October 1, 2021.*