

1 10A NCAC 13K .1212 is readopted with changes as published in 35:18 NCR 2029-2039 as follows:

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3 **10A NCAC 13K .1212 APPLICATION OF PHYSICAL PLANT REQUIREMENTS**

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

- 5 (1) New construction shall comply with all the requirements of ~~Section .1200 of this Subchapter; this~~ Section.
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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, 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 .1210 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]  
24 criteria, or functional variation from the requirements of this Rule and the rules contained in this  
25 Section. The equivalency may be granted by the Division when a governing body submits a written  
26 equivalency request to the Division that states the following:
- 27 (a) the rule citation and the rule requirement that will not be met [due to] because strict  
28 conformance with current requirements would [be impractical, extraordinary  
29 circumstances, new programs, or unusual conditions;] be:
- 30 (i) impractical;
- 31 (ii) unable to be met due to extraordinary circumstances;
- 32 (iii) unable to be met due to new programs; or
- 33 (iv) unable to be met due to unusual conditions;
- 34 (b) the justification for the equivalency; and
- 35 (c) how the proposed equivalency meets the intent of the corresponding rule requirement.

- 1           (5)     In determining whether to grant an equivalency [request] request, the Division shall consider  
2                   whether the request will reduce the safety and operational effectiveness of the facility. The  
3                   governing body shall maintain a copy of the approved equivalence issued by the Division.  
4           (6)     Where ~~rules or codes~~ rules, codes, or standards have any conflict, the more stringent requirement  
5                   shall apply.

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