



Long-Term Care Regulatory Provider Letter

Number: PL 2021-39
Title: Attic Protection Required for a Facility with a Fire Sprinkler System
Provider Types: Assisted Living Facilities (ALF)
Date Issued: October 26, 2021

1.0 Subject and Purpose

The purpose of this letter is to inform providers that an existing small Type A ALF, an existing small Type B ALF, or an existing large Type A ALF, that has a fire sprinkler system must have the attic protection described in this letter installed **before August 31, 2024**. The Health and Human Services Commission (HHSC) will survey to determine compliance with this requirement starting August 31, 2024.

A small Type A ALF or a large Type A ALF that does not have a fire sprinkler system is not required to provide additional attic protection. **This letter does not apply to an ALF that does not have a fire sprinkler system.**

2.0 Policy Details & Provider Responsibilities

Beginning August 31, 2024, Texas Administrative Code, Title 26, Part 1 (26 TAC) §§[553.115\(c\)](#), [553.125\(c\)](#) and [553.135\(c\)](#) require:

- an existing small Type A ALF or an existing small Type B ALF to comply with Chapter 33.2.3.5.7.1, Sprinklers in attics, or Chapter 33.2.3.5.7.2, Heat detection systems in attics, of NFPA 101, Life Safety Code;¹ and
- an existing large Type A ALF to comply with Chapter 33.3.3.5.4.1, Sprinklers in attics, or Chapter 33.3.3.5.4.2, Heat detection systems in attics.

An ALF that was licensed as of August 31, 2021 and has a fire sprinkler system, will have until August 31, 2024, to comply with the attic protection requirements listed below.

An ALF that was licensed as of August 31, 2021, and began installing a fire sprinkler system before August 31, 2021, will have until August 31, 2024, to comply with the attic protection requirements.

An ALF seeking licensure or approval for a relocation, where construction of the new facility began before August 31, 2021, will have until August 31, 2024, to comply with the attic protection requirements.

An ALF seeking licensure or approval for a relocation on or after August 31, 2021, and construction of the facility did not begin before August 31, 2021, is required to have a fire sprinkler system and must have protected attics per NFPA 101, 2012 Edition, Chapter 32.3 or 33.3. This means a small ALF seeking licensure or approval for relocation on or after August 31, 2021, must have an automatic fire sprinkler system installed and the sprinkler system must include the attic protection requirements per NFPA 101, Chapter 32. An ALF seeking licensure or relocation does not have until August 31, 2024, to comply with the attic protection requirements. Rather, the ALF must comply with the attic protection requirements prior to approval for licensure or relocation.

2.1 NFPA 101 Attic Protection Requirements:

If an ALF addressed in this letter has an automatic sprinkler system and **has gas-fired equipment in the attic** (e.g., a gas-fired furnace or water heater), it must protect the entire attic with automatic sprinklers that are part of the approved automatic sprinkler system.

If an ALF addressed in this letter has an automatic sprinkler system and **does not have gas-fired equipment in the attic**, it must protect the attic in one of the following ways:

- by protecting the attic throughout with a heat detection system arranged to activate the building fire alarm system;
- by protecting the attic throughout with automatic sprinklers that are part of the approved automatic sprinkler system;
- by ensuring the attic is made of noncombustible or limited-combustible construction; or

- by ensuring the attic is constructed of fire-retardant-treated wood in accordance with NFPA 703, *Standard for Fire-Retardant Treated Wood and Fire-Retardant Coatings for Building Materials*.

Please note that NFPA 101 refers to attics that are used for living purposes or storage, but the rule at 26 TAC §[553.104\(j\)\(7\)](#) does not allow an ALF to use an attic for storage purposes. In addition, this letter assumes an attic does not and cannot meet the living space requirements found at 26 TAC §§[553.112](#), [553.122](#), and [553.132](#), making an attic unusable as living space.

3.0 Background/History

The revised ALF LSC rules, effective August 31, 2021, in 26 TAC, Chapter 553, Subchapter D, Facility Construction, implement the adoption of the 2012 edition of NFPA 101, Life Safety Code. Rule references to all other editions of NFPA 101 were replaced with the 2012 edition.

4.0 Resources

None.

5.0 Contact Information

If you have any questions about this letter, please contact the Policy and Rules Section by email at LTCRPolicy@hhs.texas.gov or call (512) 438-3161.

Attachment – Attic Protection Requirements by Type of ALF

ALF Type	Compliance Date	TAC Reference	Licensing Requirement
Existing Small Type A without fire sprinklers	Not applicable	Not applicable	No requirement
Existing Small Type A with fire sprinklers	August 31, 2024	§553.115(c)	NFPA 101, 33.2.3.5.7.1 Fuel-fired equipment in attic: protect w/ sprinklers. NFPA 101, 33.2.3.5.7.2 No fuel-fired equipment in attic: <ol style="list-style-type: none"> 1. Heat detectors connected to fire alarm; or 2. Automatic sprinklers; or 3. Constructed of noncombustible or limited-combustible construction; or 4. Constructed of fire-retardant-treated wood.

ALF Type	Compliance Date	TAC Reference	Licensing Requirement
Existing small Type B	August 31, 2024	§553.125(c)	NFPA 101, 33.2.3.5.7.1 Fuel-fired equipment in attic: protect w/ sprinklers. NFPA 101, 33.2.3.5.7.2 No fuel-fired equipment in attic: <ol style="list-style-type: none"> 1. Heat detectors connected to fire alarm; or 2. Automatic sprinklers; or 3. Constructed of noncombustible or limited-combustible construction; or 4. Constructed of fire-retardant-treated wood.
Existing Large Type A without fire sprinklers	Not applicable	Not applicable	No requirement
Existing Large Type A with fire sprinklers	August 31, 2024	§553.135(c)	NFPA 101, 33.3.3.5.4.1 Fuel-fired equipment in attic: protect w/ sprinklers. NFPA 101, 33.3.3.5.4.2 No fuel-fired equipment in attic: <ol style="list-style-type: none"> 1. Heat detectors connected to fire alarm; or 2. Automatic sprinklers; or 3. Constructed of noncombustible or limited-combustible construction; or 4. Constructed of fire-retardant-treated wood.

ALF Type	Compliance Date	TAC Reference	Licensing Requirement
New Small Type A	August 31, 2021	§553.215(c)	<p>NFPA 101, 32.2.3.5.7.1 Fuel-fired equipment in attic: protect w/ sprinklers.</p> <p>NFPA 101, 32.2.3.5.7.2 No fuel-fired equipment in attic:</p> <ol style="list-style-type: none"> 1. Heat detectors connected to fire alarm; or 2. Automatic sprinklers; or 3. Constructed of noncombustible or limited-combustible construction; or 4. Constructed of fire-retardant-treated wood.
New Small Type B	August 31, 2021	§553.225(c)	<p>NFPA 101, 32.2.3.5.7.1 Fuel-fired equipment in attic: protect w/ sprinklers.</p> <p>NFPA 101, 32.2.3.5.7.2 No fuel-fired equipment in attic:</p> <ol style="list-style-type: none"> 1. Heat detectors connected to fire alarm; or 2. Automatic sprinklers; or 3. Constructed of noncombustible or limited-combustible construction; or 4. Constructed of fire-retardant-treated wood.
New Large Type A	Not applicable	Not applicable	Attic protection is included in the required fire sprinkler system.

Endnote References

¹ **To review NFPA codes and standards online:**

- [View the list of NFPA's codes and standards.](#)
- Select the document you want to review.
- Click the "Free access" link (under the document title)
- Select the edition of the document you want to review.
- Click "View."
- You will be asked to "sign in" or create a free profile to access the document in read-only format.