



## Long-Term Care Regulatory Provider Letter

**Number:** PL 2021-32 (Revised)

**Title:** Implementing ALF Life Safety Code Rules

**Provider Types:** Assisted Living Facility (ALF)

**Date Issued:** Revised March 31, 2024

### 1.0 Subject and Purpose

This PL is being issued in response to questions from providers on how to navigate and interpret the ALF Life Safety Code (LSC) rules effective August 31, 2021, in Texas Administrative Code, Title 26, Part 1 (26 TAC), Chapter 553 Licensing Standards for Assisted Living Facilities, [Subchapter D, Facility Construction](#) and to ensure consistent application of the ALF regulations. Subchapter D was reorganized into several divisions to enable stakeholders and surveyors to identify those rules applicable to each ALF based on the facility size and type and whether it is new or existing. The rules also adopt the 2012 edition of the National Fire Protection Association (NFPA) 101, Life Safety Code and the codes and standards referenced by NFPA 101.<sup>1</sup>

HHSC is extending the compliance period for existing ALFs that are required to protect an attic as discussed in [section 2.5.1 of this document](#) because of the impact on an ALF's ability to perform the required work during the COVID-19 public health emergency. The compliance period is extended by two additional years, until August 31, 2026.

This PL updates the process for providers to obtain the LSC checklists used by HHSC surveyors and makes providers aware of two more checklists they can request.

The PL also updates information about typographical errors in rule and provides the correct rule language, and updates references in the endnotes including how to access NFPA codes and standards at no charge.

## 2.0 Policy Details & Provider Responsibilities

The regulations in [Subchapter D](#) are arranged into divisions. [Section 553.100](#), General Requirements, provides a roadmap for the application of the rules based on facility size and type and the date a facility, or a portion of a facility, was licensed.

### 2.1 Rules Applicable to All Facilities

All facilities must comply with [Division 1, General Provisions](#), §§553.100 - 553.101, which contains general requirements and definitions applicable solely to Subchapter D.

All facilities must also comply with [Division 2, Provisions Applicable to All Facilities](#), §§553.103 – 553.104.

### 2.2 Facilities Licensed Before August 31, 2021

An ALF initially licensed **before August 31, 2021**, and continually operated under an ALF license without interruption since then, is considered an existing ALF and must comply with the following, as applicable:

- An existing small Type A ALF must comply with [Division 4](#) relating to Existing Small Type A Assisted Living Facilities, §§553.110 - 553.119.
- An existing small Type B ALF must comply with [Division 5](#) relating to Existing Small Type B Assisted Living Facilities, §§553.120 - 553.129.
- An existing large Type A ALF must comply with [Division 6](#) relating to Existing Large Type A Assisted Living Facilities, §§553.130 - 553.139.
- An existing large Type B ALF must comply with [Division 7](#) relating to Existing Large Type B Assisted Living Facilities, §§553.140 - 553.149.

An existing ALF must ensure a room where an existing working fireplace is located has an electrically supervised carbon monoxide detector connected to the fire alarm system. The carbon monoxide detector must be installed not later than August 31, 2022.<sup>2</sup> If an existing ALF installs a new working fireplace, the carbon monoxide detector must be installed at the same time.

### **2.3 Facilities Licensed on or After August 31, 2021**

An ALF initially licensed **on or after August 31, 2021**, or any new building or building addition to a currently licensed ALF constructed **on or after August 31, 2021**, is considered a new ALF and must comply with the following:

- A new small Type A ALF must comply with [Division 8](#) relating to New Small Type A Assisted Living Facilities, §§553.210 - 553.219.
- A new small Type B ALF must comply with [Division 9](#) relating to New Small Type B Assisted Living Facilities, §§553.220 - 553.229.
- A new large Type A ALF must comply with [Division 10](#) relating to New Large Type A Assisted Living Facilities, §§553.230 - 553.239.
- A new large Type B ALF must comply with [Division 11](#) relating to New Large Type B Assisted Living Facilities, §§553.240 - 553.249.

An ALF that obtained a plan review from the LTCR Architectural Unit dated on or after August 31, 2019, through August 31, 2021, but that has not yet been issued a license, is considered a new facility. However, the ALF can choose to comply with the requirements for an existing ALF.

A new ALF undergoing construction on August 31, 2021, even if the facility did not receive a plan review, can choose to comply with the requirements for an existing ALF if the facility provides evidence the construction started, or the applicant had received a permit to begin construction, before August 31, 2021.

### **2.4 Building Rehabilitation**

Consult [Division 3, Building Rehabilitation](#), to determine which requirements the building rehabilitation activity must meet.

### **2.5 Protection of Attics**

Certain ALFs with a fire sprinkler system are required to protect attics. HHSC provides additional guidance related to the protection of attics in

[PL 2021-39, Attic Protection Required for a Facility with a Fire Sprinkler System.](#)

### 2.5.1 Existing Facilities

An existing small Type A or Type B ALF, or an existing large Type A ALF, equipped with a fire sprinkler system must ensure an attic is protected according to the requirements specified in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.<sup>3</sup> An existing small ALF or an existing Large Type A ALF that was licensed before August 31, 2021, will have until **August 31, 2026, to comply** with the attic protection requirements.

### 2.5.2 New facilities

A new small Type A or Type B ALF must ensure its attic is protected according to the requirements specified in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.<sup>4</sup> A new small ALF seeking licensure or approval for a relocation on or after August 31, 2021, is required to have a fire sprinkler system and must include the attic protection requirements as part of the requirements to obtain a license. The ALF seeking licensure or relocation does not have until August 31, 2026, to comply with the attic protection requirements. Rather, the ALF must comply with the attic protection requirements prior to approval for licensure or relocation.

## 2.6 ALF LSC Checklists

HHSC has reorganized the HHSC forms website. The ALF LSC checklists are no longer published on the HHSC ALF provider portal website because the checklists are intended for use by HHSC LSC surveyors when conducting inspections at ALFs.<sup>5</sup> Even though the checklists are not published, HHSC will provide a copy of any of the checklists listed below. Please contact LTCR Policy & Rules by email at [LTCRPolicy@hhs.texas.gov](mailto:LTCRPolicy@hhs.texas.gov) to request copies of any of the following checklists.

- Form 2384 - existing small type A
- Form 2385 - existing small type B

- Form 2386 - existing large type A
- Form 2387 - existing large type B
- Form 2388 - new small type A
- Form 2389 - new small type B
- Form 2390 - new large type A
- Form 2391 - new large type B
- Form 2392 - physical plant requirements for Alzheimer's units
- Form 2393 - emergency preparedness
- Form 2395 - building rehabilitation

## 2.7 Typographical Errors

HHSC has identified these typographical errors in the ALF LSC rules:

- The rule at [26 TAC §553.100\(I\)](#) refers to **§553.51**, Certification of a Facility or Unit for Persons with Alzheimer's Disease and Related Disorders. The correct reference is **§553.27** and **§553.29**.
- The rule at [26 TAC §553.107\(c\)\(3\)](#) refers to the definition at **§553.101(6)(L)**, Building Rehabilitation. The correct reference is **§553.101(5)(L)**.
- The rules at [§§553.212\(b\)\(3\)](#), [553.222\(b\)\(3\)](#), [553.232\(b\)\(3\)](#), and [553.242\(b\)\(3\)](#) state the total area of all windows in a bedroom must not be less than eight percent of the minimum bedroom usable floor space required by subsection **(a)(3)** of the referenced sections. The correct reference is **(a)(2)**.
- The rule at [26 TAC §553.235\(a\)\(2\)\(C\)](#) states a new large Type A ALF constructed to meet the requirements of NFPA 101, Chapter 18, New Health Care Occupancies, may install a smoke detection system meeting the requirements of **19.3.4.5.1, Corridors**, in NFPA 101, Chapter 18, New Health Care Occupancies. The correct reference is **18.3.4.5.3, Nursing Homes**.
- The rule at [26 TAC §553.235\(a\)\(2\)\(E\)](#) states a new large Type A ALF is not required to install smoke alarms, as required by **32.3.4.7**, Smoke Alarms, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies, in addition to the smoke detectors required by subparagraphs (A) - (D). The correct reference is **32.3.3.4.7**.
- The rule at [26 TAC §553.245\(a\)\(2\)\(A\)](#) states a new large Type B ALF must meet the requirements of **18.3.4.5.1, Corridors**, in

NFPA 101, Chapter 18, New Health Occupancies. The correct reference is **18.3.4.5.3, Nursing Homes**.

- The rule at [26 TAC §553.246\(a\)](#) states a new large Type B ALF must meet the requirements of **19.3.2, Protection from Hazards, in NFPA 101, Chapter 19**, New Health Care Occupancies. The correct reference is **18.3.2, Protection from Hazards in NFPA 101, Chapter 18**.
- The rule at [26 TAC §553.247\(d\)](#) states a new large Type B ALF must meet the requirements of 9.1.1, Gas, in **NFPA**, Chapter 9, Buildings Services and Fire Protection Equipment. The correct reference is to **NFPA 101**.

Until HHSC can correct these errors in the ALF LSC rules, this PL serves as clarification and correction.

### **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](mailto:LTCRPolicy@hhs.texas.gov) or call (512) 438-3161.

## Endnote References:

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- <sup>1</sup> **To review NFPA codes and standards online:**
- [View the list of NFPA's codes and standards.](#)
  - Select "Read More" under the document you want to review.
  - Under Edition select the edition of the document you want to review.
  - Click the "Free access" link (under the "Select Edition")
  - You will be asked to "sign in" or to create a free account to access the document in read-only format.
- <sup>2</sup> Requirements for carbon monoxide detection installed in the same room as a working fireplace:
- [26 TAC §553.117\(d\)\(2\)\(E\)\(iv\)](#) - existing small type A
  - [26 TAC §553.127\(d\)\(2\)\(E\)\(iv\)](#) - existing small type B
  - [26 TAC §553.137\(e\)\(2\)\(E\)\(iv\)](#) - existing large type A
  - [26 TAC §553.147\(e\)\(2\)\(E\)\(iv\)](#) - existing large type B
- <sup>3</sup> Attic protection requirements for existing ALFs:
- NFPA 101, 33.2.3.5.7, Chapter 33, Existing Residential Board and Care Occupancies - existing small Type A or Type B ALF
  - NFPA 101, 33.3.3.5.4, Chapter 33, Existing Residential Board and Care Occupancies - existing large Type A ALF
  - NFPA 101, 32.2.3.5.7, Chapter 32, New Residential Board and Care Occupancies - new small Type A or Type B ALF
- <sup>4</sup> Attic protection requirements for new ALFs:
- NFPA 101, 32.2.3.5.7, Chapter 32, New Residential Board and Care Occupancies - new small Type A or Type B ALF
- <sup>5</sup> According to Texas Health and Safety Code, [Section 247.027](#), HHSC must establish an inspection checklist based on the minimum standards for assisted living licensing and must use the checklist when conducting a licensing inspection.