



Long-Term Care Regulatory Provider Letter

Number: PL 2021-32
Title: Implementing ALF Life Safety Code Rules
Provider Types: Assisted Living Facility (ALF)
Date Issued: August 31, 2021

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 101.¹

2.0 Policy Details & Provider Responsibilities

The organization 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, 2022.² 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 will provide additional guidance related to the protection of attics in a separate PL.

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.³ An existing small ALF or an existing Large Type A ALF that was licensed before August 31, 2021 and that has a fire

sprinkler system or installs a fire sprinkler system on or after August 31, 2021, will have until **August 31, 2024 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.⁴ 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, 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.

2.6 ALF LSC Checklists

HHSC is reorganizing the ALF LSC checklists, HHSC forms 2384 through 2392, to streamline which checklist applies to which ALF. As of August 31, 2021, HHSC forms 2383 through 2392 on the [HHSC forms website](#) will no longer reflect the revised ALF LSC rules in effect. HHSC is in the process of updating these forms and will publish the updated forms on the forms website as soon as possible. Once the revised forms are published, HHSC will revise this PL to inform ALFs that the revisions are complete.

- Form 2384-E - existing small type A
- Form 2385-E - existing small type B
- Form 2386-E - existing large type A
- Form 2387-E - existing large type B
- Form 2388-E - new small type A
- Form 2389-E - new small type B
- Form 2390-E - new large type A
- Form 2391-E - new large type B
- Form 2392-E - physical plant requirements for Alzheimer's units

2.7 Typographical Errors

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

- The rule at 26 TAC §553.100(l) 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 18.3.4.5.1.
- 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 §553.246(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.

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 or call (512) 438-3161.

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.

² 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

³ 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

⁴ 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