



## Long-Term Care Regulation Technical Memorandum

<b>Number:</b> TM 2022-02
<b>Title:</b> Protection of Cooking Operations in Small Type A, Small Type B, and Large Type A ALFs
<b>Provider Types:</b> Assisted Living Facility (ALF)
<b>TAC Reference:</b> See Endnote <sup>1</sup>
<b>Date Issued:</b> August 31, 2023

### 1.0 Subject and Purpose

This technical memorandum (TM) provides guidance on the interpretation of, and compliance with, the requirements for protection of cooking operations in small Type A, small Type B, and large Type A ALFs, as established in Texas Administrative Code, Title 26 (26 TAC), Chapter 553, Licensing Standards for Assisted Living Facilities.<sup>2</sup> This TM does not provide guidance on the interpretation of, and compliance with, the requirements for protection of cooking operations in large Type B ALFs. **Guidance on requirements for protection of cooking operations in large Type B ALFs is found in [TM 2023-01, Protection of Cooking Operations in Large Type B ALFs](#).** This TM was revised to ensure consistency in terminology used in multiple TMs.

The guidance provided in this TM cannot address every unique condition or configuration related to protection of cooking operations. Compliance can only be evaluated based upon the particular on-site conditions in each situation. This TM applies only to the provisions of 26 TAC Subchapter D<sup>3</sup> specifically addressed herein. It does not constitute a substantive change to any provision of those sections, nor does it address or modify any other rule in Chapter 553 or other legal requirement to which an ALF is subject, including requirements for approval by a local authority having jurisdiction (AHJ) for enforcement of its own standards.

## 2.0 Policy Details & Provider Responsibilities

Because cooking involves heat-producing appliances, a cooking operation can be a potential source of fire in an ALF. Protection of cooking operations is the term used in the ALF rules, and in National Fire Protection Association (NFPA) codes and standards referenced in the ALF rules, to describe fire protection measures a facility must take to protect an ALF from the risk of fire originating in a cooking operation. Cooking equipment that produces grease-laden vapors might be a source of ignition. A cooking operation is not necessarily considered a hazardous area according to the ALF rules or an NFPA standard, but still may require specific fire protection features.

### 2.1 Cooking Operations

A cooking operation is any location within an ALF where the ALF is preparing meals, regardless of who can access the cooking operation. A cooking operation can use residential cooking equipment<sup>4</sup> or commercial cooking equipment.<sup>5</sup>

For some ALFs where residential cooking equipment is used in a cooking operation there are no additional fire protection features required by the ALF rules to protect the cooking operation.

When cooking equipment is present in a resident living unit, there may be additional fire safety features required, but the cooking equipment is not considered a “cooking operation” as discussed in this document in that it is not required to have the same protections as commercial cooking equipment. See the guidance in section [2.5](#) of this document for additional fire safety features required, based on the type and size of an ALF, when independent cooking equipment is present in a resident living unit.

Other AHJs over an ALF, such as fire marshals and municipal building departments, may require an ALF to protect a cooking operation even when the ALF rules do not require such protection. Those AHJs might also require different protection features or more protection features than are required in the ALF rules. The ALF rules require an ALF to meet the requirements of other AHJs, in addition to the ALF rules, to obtain a license. Therefore, an ALF must meet the requirements of HHSC and other AHJs, combined.

## 2.2 Living Units with Independent Cooking Equipment

A living unit is a portion of a facility arranged as a separate unit with one or more bedrooms, a toilet and bathing facility, and living or dining spaces, with or without facilities for cooking. A living unit is used exclusively by the residents who live in the bedrooms in the living unit.

Independent cooking equipment<sup>6</sup> describes any electric or gas stove or range with one or more burners. Independent cooking equipment does not have to include an oven. Equipment does not have to be built-in to cabinetry or be a complete range unit that sits on the floor, to be considered independent cooking equipment. For example, a hot plate that sits on a counter or other surface in a resident living unit is considered independent cooking equipment.

A living unit can include independent cooking equipment but does not have to include independent cooking equipment. Even though meals can be cooked in a microwave oven, HHSC does not consider a microwave oven in a living unit to be independent cooking equipment.

According to the ALF rules, independent cooking equipment in a resident living unit does not have to be protected as a "cooking operation." However, the ALF rules do require additional fire protection features in the resident living unit when a resident living unit includes independent cooking equipment.

See the specific requirements for each type and size of ALF in section [2.5](#) of this document for fire protection features in a resident living unit when an ALF has resident living units that include independent cooking equipment.

## 2.3 NFPA 96

NFPA 96, *Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations*,<sup>7</sup> is an NFPA standard intended to reduce the potential fire hazard of cooking operations, regardless of the type of cooking equipment used or what type of building it is used in.

NFPA 96 describes mandatory minimum preventive and operational fire safety standards for the design, installation, operation, inspection and maintenance of cooking operations. This document does not describe all the requirements of NFPA 96. An ALF that must comply with NFPA 96 should become familiar with NFPA 96 and should consult qualified professionals about the specific NFPA 96 requirements that apply to the ALF.

Small Type A, small Type B, and large Type A ALFs must comply with the requirements of NFPA 96 where the ALF rules require compliance with NFPA 96. A local AHJ can require compliance with NFPA 96 or the implementation of fire safety measures at a cooking operation even if HHSC does not.

A cooking operation protected according to NFPA 96 is not considered a “hazardous area.”

NFPA 96 includes requirements for:

- operation of all types of cooking equipment;
- exhaust or vent hoods, sometimes called range hoods;
- grease removal devices;
- exhaust ductwork;
- exhaust fans;
- dampers associated with exhaust systems;
- fire-extinguishing equipment, including fixed extinguishing systems in exhaust hoods and portable fire extinguishers;
- additional components or system that play in role in the capture, containment and control of grease-laden waste; and,
- the periodic inspection, testing and maintenance of any equipment required or governed by NFPA 96.

Where an ALF is required to comply with NFPA 96 **according to NFPA 101 or the ALF rules, NFPA might exempt the ALF from the requirements of NFPA 96 if the ALF** cooking operations use residential cooking equipment.<sup>8</sup>

See section [2.5](#) of this document for guidance on when NFPA 96 applies to different types and sizes of ALFs.

### 2.3.1 Design and Installation of Systems

The design and installation of the systems that are required by NFPA 96 is highly technical in nature. An ALF may need to engage professionals who are properly trained, qualified, and certified to perform the necessary work, depending on the system.

An ALF might have to submit design and installation plans for an exhaust hood and built-in fire extinguishment systems to a local AHJ for review and approval before installation. An ALF may have to apply and pay a fee to receive a permit from the AHJ to install the hood and other systems, which could involve the AHJ performing periodic inspections during the installation process and performing a final acceptance inspection and test when the installation is complete.

In Texas, the design and installation of a fixed, automatic fire extinguishment system in a range hood must be performed by a person employed by a company registered with the State Fire Marshal's Office<sup>9</sup> (SFMO) and licensed by the SFMO to perform the work. When a fire extinguishment system is installed in a range hood, the licensed installer will sign and place an installation label on the system to certify the system was installed according to the manufacturer's installation instructions. HHSC will review the installation tag during licensing inspections. Any time a licensed installer installs, modifies, or adds to a fire extinguishment system, the installer completes an installation certificate using a form provided by the SFMO. An ALF should retain a copy of this form in a safe place because it will contain information that the ALF will need if it ever needs to modify the range hood or fire extinguishment system.

### 2.3.2 Inspection, Testing, and Maintenance (ITM)

An ALF must ensure the **ITM** of any equipment or systems required by NFPA 96 is performed on a regular basis. **ITM tasks on a fixed extinguishment system installed in a range hood must be performed semiannually by a person licensed by the SFMO to**

perform the work. Other ITM tasks, such as maintenance and cleaning of range hoods, must be performed by knowledgeable individuals, but no special license is required.

HHSC does not require an ALF to have a contract with a company to perform ITM services on kitchen exhaust and fire protection systems. An ALF can hire qualified persons to perform this work, as needed, as long as the work is performed at the frequencies required by NFPA 96.

Maintenance of exhaust hoods and fire-extinguishing systems in exhaust hoods must be performed by properly trained, qualified, and certified persons at least semiannually.<sup>10</sup> Some components of the fire-extinguishing system are considered expendable and may have to be cleaned or replaced every year. In Texas, the fire extinguishment system in a range hood must be inspected, tested, and maintained by a person employed by a company registered with the SFMO and licensed by the SFMO to perform the work. Any time a licensed person performs service on a fire extinguishment system that person must complete, sign, and attach to the system, a service tag that indicates the work that was done. HHSC will review the service tags on a fire extinguishment system during licensing inspections.

The entire exhaust system must be inspected for grease buildup by a properly trained and qualified person at least semiannually, and more frequently in an ALF where more intensive cooking is occurring. More intensive cooking includes cooking with solid fuel, charbroiling, or wok cooking.<sup>11</sup>

If inspection of the exhaust system finds the system is contaminated with deposits of grease, the exhaust system must be cleaned by properly trained persons. When an ALF performs the inspection and cleans the exhaust system, the ALF should document in writing when the inspection and cleaning was performed. An ALF might not have trained staff or the equipment necessary to inspect and clean the exhaust system. When an ALF hires an exhaust cleaning service to inspect and clean the exhaust system, the facility must obtain a certificate showing the

name of the servicing company, the name of the person performing the work, and the date the inspection or cleaning was performed. The exhaust cleaning company should provide the ALF with a report that specifies any areas in the exhaust system that the company could not access or did not clean.

## **2.4 Self-Closing or Automatic Closing Doors**

As part of the protection of cooking operations in small Type A, small Type B, and large Type A ALFs, a self-closing or automatic closing door may be required. See the guidance in section [2.5](#) of this document for the safety features required, based on the type and size of an ALF.

A self-closing door is a door that is normally expected to be kept closed. A self-closing door is equipped with hardware so the door will close and latch into the door frame on its own unless held open by some means. A self-closing door can only be held open by a hold-open device that automatically releases the self-closing door when the fire alarm system is activated.

An automatic-closing door is a self-closing door that is held open by a hold-open device that automatically releases the self-closing door when the fire alarm system is activated. An automatic-closing door is equipped with both self-closing hardware and a hold-open device connected to the fire alarm.

## **2.5 Requirements by ALF Size and Type**

The following subsections are a guide to the requirements for specific types and sizes of ALFs discussed in this document.

### **2.5.1 Small Type A and Small Type B ALFs – New or Existing**

A small Type A or small Type B ALF using only residential cooking equipment in a cooking operation:

- No additional requirements
- A room or space containing a cooking operation using residential cooking equipment is not considered a "hazardous area."

A small Type A or small Type B ALF using commercial cooking equipment in a cooking operation:

- ALF must comply with NFPA 96 (see section [2.3](#) of this document).
- A room or space containing a cooking operation using commercial cooking equipment protected according to NFPA 96 is not considered a “hazardous area.”

A small Type A or small Type B ALF containing living units with independent cooking equipment:

- Doors between the living unit and corridors or hallways must be self-closing or automatic closing (see section [2.4](#) of this document).
- No additional fire alarm system or fire sprinkler system requirements within the living unit.
- In a small ALF, living units with independent cooking equipment have the same smoke, heat, and carbon monoxide detection requirements as other similar spaces in a small ALF, such as bedrooms, hallways, living rooms, dining rooms and kitchens. See [TM 2021-01, Smoke, Heat and Carbon Monoxide Detection](#), for more information on detection requirements in a small ALF.
- In lieu of a smoke detector, an ALF may install a heat detector in the space within the living unit where the independent cooking equipment is located.
- A living unit containing independent cooking equipment is not considered a “hazardous area.”

### **2.5.2 Large Type A ALFs – New or Existing**

All cooking operations must be protected according to NFPA 96. A cooking operation in a large Type A ALF that is protected according to NFPA 96 is not considered a “hazardous area.” See section [2.3](#) of this document for more information about NFPA 96.

Residential cooking equipment used for activities, such as baking cookies, and located in common living areas of a large Type A ALF, is not considered a “cooking operation” as discussed in this



document in that it is not required to have the same protections as commercial cooking equipment.<sup>12</sup>

Microwave ovens, hot plates, and toasters located in kitchens or in common living areas of a large Type A ALF, and used only for reheating, but not for meal preparation, are not considered a “cooking operation” as discussed in this document in that they are not required to have the same protections as commercial cooking equipment.<sup>13</sup>

A large Type A ALF with resident living units that contain independent cooking equipment:

- Doors between the living unit and corridors or hallways must be self-closing or automatic closing (see section [2.4](#) of this document).
- Additional smoke detectors that sound an alarm only within the living unit must be installed in the following locations in the living unit:<sup>14</sup>
  - Bedrooms;
  - Corridors;
  - Hallways;
  - Living rooms;
  - Dining rooms;
  - Offices;
  - Kitchens; and
  - Laundries.
- A heat detector must be installed in the kitchen within the living unit. The heat detector must activate the ALF’s fire alarm.
- A living unit containing independent cooking equipment is not considered a “hazardous area.”

### **3.0 Background/History**

[Health and Safety Code §247.0263](#) requires HHSC to provide “guidance on the interpretation of minimum life safety code standards” prescribed under Health and Safety Code, Chapter 247, Assisted Living Facilities, and ALF rules, in 26 TAC Chapter 553. The statute requires a TM to be published at least twice a year. The statute requires surveyors to use the interpretation in

a TM to assess an ALF's compliance with the requirements referenced in the TM.

#### **4.0 Resources**

[TM 2021-02 – Smoke, Heat and Carbon Monoxide Detection](#)

[TM 2023-01 – Protection of Cooking Operations in Large Type B ALFs](#)

[TM 2023-02 - Life Safety Code \(LSC\) Inspection, Testing, and Maintenance \(ITM\)](#)

#### **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> All references to Texas Administrative Code, Title 26, Part 1, Chapter 553, Licensing Standards for Assisted Living Facilities, can be viewed at the [Texas Office of the Secretary of State website](#).

## Relating to all ALFs:

- [26 TAC §553.101\(3\)](#), definition of auxiliary serving kitchen
- [26 TAC §553.101\(12\)](#), definition of independent cooking equipment
- [26 TAC §553.101\(13\)](#), definition of living unit
- [26 TAC §553.101\(24\)](#), definition of NFPA 96

## Relating to existing small Type A ALFs:

- [26 TAC §553.112\(i\)\(3\)](#), kitchens using commercial cooking equipment must meet [§553.116\(c\)](#)
- [26 TAC §553.113\(c\)\(3\)](#), doors to living units with independent cooking equipment must be self-closing or automatic-closing
- [26 TAC §553.116\(c\)](#), cooking operations using commercial cooking equipment must meet NFPA 96

## Relating to existing small Type B ALFs:

- [26 TAC §553.122\(i\)\(3\)](#), kitchens using commercial cooking equipment must meet [§553.126\(c\)](#)
- [26 TAC §553.123\(c\)\(2\)](#), doors to living units with independent cooking equipment must be self-closing or automatic-closing
- [26 TAC §553.126\(c\)](#), protection of cooking operations using commercial cooking equipment

## Relating to existing large Type A ALFs:

- [26 TAC §553.132\(o\)](#), kitchens must meet [§553.136\(c\)](#)
- [26 TAC §553.133\(c\)\(2\)](#), doors to living units with independent cooking equipment must be self-closing or automatic-closing
- [26 TAC §553.135\(a\)\(2\)\(D\)](#), additional smoke detection and heat detection in living unit with independent cooking equipment
- [26 TAC §553.136\(c\)](#), protection of cooking operations not located in an individual resident living unit

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Relating to new small Type A ALFs:

- [26 TAC §553.212\(i\)\(3\)](#), kitchens using commercial cooking equipment must meet [§553.216\(c\)](#)
- [26 TAC §553.213\(c\)\(2\)](#), doors to living units with independent cooking equipment must be self-closing or automatic-closing
- [26 TAC §553.216\(c\)](#), protection of cooking operations using commercial cooking equipment

Relating to new small Type B ALFs:

- [26 TAC §553.222\(i\)\(3\)](#), kitchens using commercial cooking equipment must meet [§553.226\(c\)](#)
- [26 TAC §553.223\(c\)\(2\)](#), doors to living units with independent cooking equipment must be self-closing or automatic-closing
- [26 TAC §553.226\(c\)](#), protection of cooking operations using commercial cooking equipment

Relating to new large Type A ALFs:

- [26 TAC §553.232\(o\)](#), kitchens must meet [§553.236\(c\)](#)
- [26 TAC §553.233\(c\)\(2\)](#), doors to living units with independent cooking equipment must be self-closing or automatic-closing
- [26 TAC §553.235\(a\)\(2\)\(D\)](#), additional smoke detection and heat detection in living unit with independent cooking equipment
- [26 TAC §553.236\(c\)](#), protection of any cooking operation not located in an individual resident living unit

<sup>2</sup> See [endnote 1](#).

<sup>3</sup> See [endnote 1](#).

<sup>4</sup> Residential cooking equipment is cooking equipment designed for and marketed to customers who intend to use the equipment in a dwelling.

<sup>5</sup> Commercial cooking equipment is cooking equipment designed for and marketed to institutional and commercial cooking operators preparing meals for large numbers of diners.

<sup>6</sup> See [26 TAC §553.101\(12\)](#).

<sup>7</sup> NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2011 edition  
National Fire Protection Association (NFPA)  
1 Batterymarch Park  
Quincy, Massachusetts 02169-7471

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<sup>8</sup> NFPA 96 does not require additional protective equipment, such as an exhaust hood or fixed extinguishment system, when only residential equipment is used, the facility is not an assembly occupancy, and a portable fire extinguisher is located in the kitchen area. See NFPA 96, 1.1.4. Small Type A, small Type B and large Type A ALFs are residential board and care occupancies according to NFPA codes and standards; these ALFs are not assembly occupancies.

<sup>9</sup> The [State Fire Marshal's Office \(SFMO\)](#) is a part of the Texas Department of Insurance. The SFMO licenses companies and individuals that sell, install, certify and service:

- Fire extinguishers;
- Fire alarms;
- Fire sprinklers; and,
- Fireworks.

<sup>10</sup> See NFPA 96, 11.2.

<sup>11</sup> See NFPA 96, 11.4, which references Table 11.4, included below:

**NFPA 96, Table 11.4, Schedule of Inspection for Grease Buildup**

Type or Volume of Cooking	Inspection Frequency
Systems serving solid fuel cooking operations	Monthly
Systems serving high-volume cooking operations, such as 24-hour cooking, charbroiling, or wok cooking	Quarterly
Systems serving moderate-volume cooking operations	Semiannually
Systems serving low-volume cooking operations, such as churches, day camps, seasonal business, or senior centers	Annually

<sup>12</sup> See [endnote 9](#).

<sup>13</sup> See [26 TAC §553.132\(o\)\(2\)](#) for existing large Type A ALFs; [§553.232\(o\)\(2\)](#) for new large Type A ALFS.

<sup>14</sup> See [26 TAC §553.135\(a\)\(2\)\(D\)](#) for existing large Type A ALFs; [§553.235\(a\)\(2\)\(D\)](#) for new large Type A ALFs.