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## Subchapter D Facility Construction

### §92.61 Introduction and Application

- (a) Classification of facilities.
  - (1) A small facility is a building(s) consisting of one or more floors providing sleeping accommodations for 16 or fewer residents exclusive of "live-in" houseparents, family or staff.
  - (2) A large facility is a building(s) consisting of one or more floors providing sleeping accommodations for 17 or more residents exclusive of "live-in" staff.
- (b) Applicability of requirements for construction and life safety.
  - (1) All buildings or structures, new or existing, used as a licensed assisted living facility must be in accordance with these standards. Any exceptions are specifically mentioned.
  - (2) For existing buildings and structures which are converted to assisted living occupancy, no residents will be admitted until all standards are met and approval for occupancy is granted by the licensing section of the Texas Department of Human Services (DHS).
  - (3) A licensed nursing facility or licensed hospital, meeting Chapter 12 or Chapter 13 of National Fire Protection Association 101 (NFPA 101), may be considered as an assisted living occupancy without additional fire safety features as may be specified in this subchapter.
  - (4) Buildings and structures must conform to the 1988 edition of NFPA 101, as published by the National Fire Protection Association, Inc., Batterymarch Park, Quincy, Massachusetts 02269, as follows. DHS has the option, for new construction only, of accepting compliance with later editions of the code, in their entirety, when required by local building authorities.
    - (A) All Type A facilities and small Type B facilities must conform to Chapter 21.
    - (B) Type B large facilities must conform to Chapter 12. The requirements of limited care, as defined by the NFPA 101, may be used.
    - (C) Other chapters, sections, subsections, or paragraphs of the NFPA 101 such as Chapters 1 through 7 and Chapter 31, must apply as referenced or intended for their relation to Chapters 21, 12 and 18.
    - (D) Buildings which contain living units with independent cooking and bathroom facilities must conform with NFPA 101, Chapters 21 and 18, New Apartment Buildings, Option #2, "Buildings provided with a complete automatic fire detection and notification system," as a minimum.
  - (5) New construction is subject to local codes. The description of the occupancy may vary with local codes. In the absence of local codes or their enforcement for new construction, the department will require conformance to the fundamentals of the following codes:
    - (A) the Uniform Building Code, 1988 edition by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601, 'R' Occupancy, Divisions 1 and 3 for Type A facilities, and 'I' Occupancy for Large Type B facilities;
    - (B) the Uniform Plumbing Code, 1988 edition, as published by the International Association of Plumbing and Mechanical Officials, 5032 Alhambra Avenue, Los Angeles, California 90032;

- (C) the National Electrical Code as specified under NFPA 101;
  - (D) illumination systems must be designed and installed in accordance with the Lighting Handbook of the Illuminatory Engineering Society (IES) of North America, except as may be modified in this subchapter.
- (6) An existing building either occupied as an assisted living facility at the time of initial inspection by DHS or converted to occupancy as an assisted living facility must meet all local requirements pertaining to that building for that occupancy. DHS will require the facility sponsor or licensee to submit evidence that local requirements are satisfied. When local laws, codes or ordinances are more stringent than these standards for assisted living, the more stringent requirements will govern.
  - (7) Buildings must be structurally sound with regard to actual or expected dead, live, and wind loads according to applicable building codes.
  - (8) The facility must meet the provisions and requirements concerning accessibility for individuals with disabilities in the following laws: the Americans with Disabilities Act of 1990 (Public Law 101- 336; Title 42, United States Code, Chapter 126); Title 28, Code of Federal Regulations, Part 35; Texas Civil Statutes, Article 9102; and Title 16, Texas Administrative Code, Chapter 68. Plans for new construction, substantial renovations, modifications, and alterations must be submitted to the Texas Department of Licensing and Regulation (Attn: Elimination of Architectural Barriers Program) for accessibility approval under Article 9102.

## **§92.62 General Requirements**

- (a) General. The concept of the National Fire Protection Association (NFPA) 101 Life Safety Code requirements for fire safety with regard to the residents, is based on evacuation capability. In accordance with Chapter 21 of this title (relating to Residential Board and Care Occupancies), Type A facilities are classified "slow" evacuation capability and Type B facilities are classified "impractical" evacuation capability.
- (b) Evacuation procedures. Residents in Type A facilities must be able to demonstrate to the Texas Department of Human Services (DHS) that they can travel from their living unit to a centralized space, such as lobby, living or dining room on the level of discharge within a 13-minute period without continuous staff assistance. Elevators cannot be used as an evacuation route.
- (c) Operational features.
  - (1) All fires causing damage to the facility and/or equipment must be reported to DHS within 72 hours. Any fire causing injury or death to a resident must be reported immediately. A telephone report must be followed by a written report on a form which will be supplied by DHS.
  - (2) Fire drills must be conducted quarterly on each shift and with at least one drill conducted each month. The drills may be announced in advance to the residents. The drills must involve the participation of the staff in accordance with the emergency plan. Residents must be informed of evacuation procedures and locations of exits. All fire drills must be documented on a form provided by DHS. In large Type B facilities, the drill must include the activation of the fire alarm signal, except between 9:00 p.m. and 6:00 a.m.
  - (3) Smoking regulations must be established, and smoking areas must be designated for residents and staff. Ashtrays of noncombustible material and safe design must be provided in smoking areas.

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- (4) All facilities, except small, one-story facilities, must post an emergency evacuation floor plan.
  - (5) The administration must have in effect and available to all supervisory personnel written copies of a plan for the protection of all persons in the event of fire and for their remaining in place, for their evacuation to areas of refuge, and from the building when necessary. The plan must include special staff actions including fire protection procedures needed to ensure the safety of any resident and must be amended or revised when needed. All employees must be periodically instructed and kept informed with respect to their duties and responsibilities under the plan. A copy of the plan must be readily available at all times within the facility. This written plan must reflect the current evacuation capabilities of the residents.
- (d) Safety operations. The facility must have a written emergency preparedness and response plan. Procedures to be followed in an internal or external disaster should be attached to the plan. The plan must address, at a minimum, the eight core functions of emergency management, which are: direction and control; warning (how the facility will be notified of emergencies and who they will notify); communication (with whom and by what mechanism); sheltering arrangements; evacuation (destinations, routes); transportation; health and medical needs; and resource management (supplies, staffing, emergency equipment, records). Plans must be coordinated with the local emergency management coordinator and should address those natural, technological and man-made emergencies that could affect the facility. Information about the local emergency management coordinator may be obtained from the office of the local mayor or county judge.
- (e) Construction.
- (1) There must be separation from other occupancies. A common wall between an assisted living facility and another occupancy must be not less than a two-hour fire-rated partition. (The partition must be as defined by National Fire Protection Association Standards.) A licensed nursing facility or licensed hospital is not considered another occupancy for this purpose. An exception is where an unlicensed occupancy occurs in the same building or structure and is so intermingled that separate safeguards are impracticable. The means of egress, construction, protection and other safeguards must comply with the National Fire Protection Association (NFPA) 101 requirements of the licensed occupancy.
  - (2) Interior wall and ceiling surfaces must have as the finished surface or as substrate or sheathing a fire resistance of not less than that provided by 3/8" gypsum board (20 minute fire rating), unless approved otherwise by DHS. A sprinkler system will not substitute for the minimum construction requirements. An exception is Type B large facilities shall meet the construction requirements of NFPA 101, Chapter 12, §12-1.6.
  - (3) Flame spread rate requirements must be as specified in NFPA 101, §6-5. Flame spread is the rate of fire travel along the surface of a material. (This is different than other requirements for time-rated "burn through" resistance ratings, such as one-hour rated.) Flame spread ratings are Class A (0-25), Class B (26-75), and Class C (76-200).
  - (4) Doors between resident rooms and corridors or public spaces must be not less than 1-3/4" thick solid core wood construction or 20-minute fire-rated, self-closing or automatic-closing, and latch in their frames. Exceptions are as follows.
    - (A) Small Type A facilities can have smoke resisting doors, with self-closing or automatic closing devices, provided the interior finish is Class 'B' or better and there are two remote exit routes.

- (B) Small Type A facilities that have 20-minute fire-rated doors (or 1-3/4" solid core wood), Class 'B' or better interior finish, and two remote exit routes are not required to be self-closing or automatic-closing.
  - (C) In Small and Large Type A facilities protected throughout by an approved automatic sprinkler system, doors to resident bedrooms are not required to be self-closing or automatic-closing, except a three story or larger building which does not meet construction requirements of NFPA 101, Chapter 12.
  - (D) In small and large Type B facilities protected throughout by an approved automatic sprinkler system, the facility may have smoke resisting doors. Door-closing devices are not required.
- (5) Upper floors must have at least two separate approved stairs. Each stair must be arranged and located so that it is not necessary to go through another room (such as bedroom or bath) to reach the stair. All stairs must be provided with handrails and with normal lighting. Refer to NFPA 101 for Class 'A' stair details. An exception is that for existing 16 beds or less: at least one main stair may be Class 'B'. Such stairs may be constructed of wood.
  - (6) All hazardous areas, as defined in the NFPA 101, Chapter 21 or 12, must be one-hour fire-separated or provided with sprinkler protection or both if considered severe. Gasoline, volatile materials, oil base paint, or similar products must not be stored in the building housing residents.
  - (7) Exit signs, with emergency power, must be provided in all large facilities and installed in accordance with NFPA 101, §5-10.
  - (8) Emergency lighting must be provided in all buildings with 25 or more rooms; in apartment buildings with 12 or more living units or which are 3 or more stories in height; and in all large facilities that are designed for Type B. The system must be installed in accordance with NFPA 101, §5-9.
  - (9) Emergency motor generators, if required or provided, must be installed in accordance with NFPA 37 or NFPA 110 or other applicable standard.
- (f) Fire alarm and sprinkler systems.
    - (1) Fire alarm and smoke detection system. An underwriter's laboratory (U.L.) listed manual fire alarm initiating system, with an interconnected automatic smoke detection and alarm initiation system, must be provided in accordance with the NFPA 101, §7-6. The operation of any alarm initiating device will sound an audible/visual alarm(s) at the site.
      - (A) Smoke detectors must be installed in resident bedrooms, corridors, hallways, living rooms, dining rooms, offices, and public or common areas. Service areas, such as kitchens, laundries and attached garages used for car parking may have heat detectors in lieu of smoke detectors. Exceptions are as follows.
        - (i) Large facilities with apartment units may use listed smoke detectors with an alarm device and separate heat detector contacts in the living area. The smoke detectors must provide an audible signal within the apartment, and annunciate at the main staff station or location. The heat detector contacts must be connected into the fire alarm system and provide a general alarm when activated.

- (ii) A facility constructed to meet NFPA 101, Chapter 12, need only meet §12-3.4.5.1. for smoke detector locations.
  - (B) The fire alarm control panel must be visible to staff at or near the staff area that is attended 24 hours per day. An exception to this requirement is a fire alarm control panel that is monitored by a device carried by the staff.
  - (C) The primary power source for the complete fire alarm system must be commercial electric and permanently wired for power on a dedicated circuit in accordance with the National Electrical Code.
  - (D) Emergency power source must be from approved storage batteries or on-site engine-driven generator set.
  - (E) The facility must have a written contract with a fire alarm firm which has been issued an Alarm Certificate of Registration (ACR) number from the Texas State Fire Marshal's Office to perform the inspection, test and maintenance requirements of NFPA 72 semiannually. Inspections stipulated in the contract must be performed. The person performing the semiannual service must have an individual fire alarm license from the Texas State Fire Marshal's Office. All other NFPA 72 requirements should be performed and documented by a knowledgeable individual.
  - (F) Smoke detector sensitivity must be checked within one year after installation and every alternate year thereafter in accordance with NFPA 72. Documentation, including as-built installation drawings, operation and maintenance manuals, and a written sequence of operation, must be available for examination by DHS.
  - (G) In large facilities, the fire alarm panel must indicate as a separate zone, each floor and/or smoke compartment. Each zone must have an alarm and trouble indication.
  - (H) In large Type B facilities the fire alarm must automatically notify the fire department in accordance with NFPA 101, §7-6.4.
  - (I) Small Type A facilities, licensed for eight beds or less, may provide a manual fire alarm system, with smoke detection that complies with Household Fire Warning Equipment (NFPA 74), at a minimum.
- (2) Sprinkler systems. When installed or required, sprinkler systems must be inspected, tested, and maintained in accordance with NFPA 25. The facility must have a written contract with a fire protection sprinkler firm, that has been issued a Sprinkler Certificate of Registration number (SCR) from the Texas State Fire Marshal's Office, to perform the required services semiannually. The facility must have documentation available to show that all the requirements of NFPA 25 have been met including the annual inspection, test, and maintenance by the registered fire sprinkler firm. The facility should retain one set of the fire sprinkler system plans and hydraulic calculations on the property.
- (A) Small Type A facilities housing 16 or fewer residents may have a system that meets NFPA 13D requirements. Small Type B facilities housing 16 or fewer residents must be protected by a sprinkler system in compliance with NFPA 13 or NFPA 13D, with additional requirements for coverage in all habitable areas and closets as specified by NFPA 101, Chapter 21.
  - (B) Large Type B facilities must have a complete NFPA 13 system.

- (C) Large Type A facilities may have an NFPA 13R system (up to and including three stories).
- (g) Site and location.
  - (1) The facility must be serviced by a paid or volunteer fire fighting unit as approved by DHS. Water supply for fire fighting purposes must be as required and approved by the fire fighting unit.
  - (2) Any site or building conditions that are a fire hazard, health hazard, or physical hazard must have corrections made as determined by DHS.
  - (3) The facility must provide or arrange for nearby parking spaces for private vehicles of residents and visitors. A minimum of one space must be provided for each four beds or fraction thereof, or per local code, whichever is more stringent.
  - (4) Ramps, walks, and steps must be of slip-resistive texture and uniform, without irregularities. Ramps must not exceed 1:12 slope, and must meet handicap standards for width. Guardrails, fences, or handrails must be provided where grades make an abrupt change in level.
  - (5) All outside areas, grounds, adjacent buildings, etc., on the site must be maintained in good condition and kept free of rubbish, garbage, untended growth, etc., that may constitute a fire or health hazard. Site grades must provide for water drainage away from the structure to prevent ponding or standing water at or near the building.
- (h) Sanitation and housekeeping.
  - (1) Waste water and sewage must be discharged into an approved sewerage system or an onsite sewerage facility approved by the Texas Natural Resource Conservation Commission or its authorized agent.
  - (2) The water supply must be of safe, sanitary quality, suitable for use, and adequate in quantity and pressure, and must be obtained from a water supply system, the location, construction, and operation of which are approved by DHS.
  - (3) Waste, trash, and garbage must be disposed of from the premises at regular intervals in accordance with state and local practices. Excessive accumulations are not permitted. The facility must comply with 25 TAC §§1.131-1.137 (relating to Definition, Treatment, and Disposal of Special Waste from Health Care Related Facilities).
  - (4) Operable windows must be insect screened.
  - (5) An ongoing pest control program must be provided by facility staff or by contract with a licensed pest control company. The least toxic and least flammable effective chemicals must be used.
  - (6) All bathrooms, toilet rooms, and other odor-producing rooms or areas for soiled and unsanitary operations must be ventilated with operable windows or powered exhaust to the exterior for odor control. An exception is that small facilities may vent into an attic in accordance with the Uniform Building Code or local building code.
  - (7) In kitchens and in laundries, there must be procedures utilized by facility staff to avoid cross-contamination between clean and soiled utensils and linens.

- (8) The facility must be kept free of accumulations of dirt, rubbish, dust, and hazards. Floors must be maintained in good condition and cleaned regularly; walls and ceilings must be structurally maintained, repaired, and repainted or cleaned as needed. Storage areas and cellars must be kept in an organized manner. No storage will be permitted in the attic spaces.
  - (9) The facility must be capable of being ventilated through the use of windows, mechanical ventilation, or a combination of both. Interior areas designated for smoking within the building must have mechanical ventilation directed to the exterior to remove smoke at the rate of 10 air changes per hour.
  - (10) In addition to janitor closet(s) called for in specific departments of large facilities, other janitor closet(s) must be provided throughout the facility to maintain a clean and sanitary environment. Each janitor closet must have a service sink and forced air ventilation ducted to the outside.
  - (11) A public/staff toilet, i.e. commode and lavatory, complying with accessibility standards is required for every large facility up to and including 60 beds. Facilities over 60 beds must have separate public and staff toilets in addition to the staff toilet(s) required for the dietary staff.
  - (12) If the facility provides linens to the residents, the quantity of available linen must meet the sanitary and cleanliness needs of the residents. Clean linens must be stored in a clean area.
- (i) General safety features.
- (1) The facility must have an annual inspection by the local fire marshal as part of the renewal procedures listed in §92.15 of this title (relating to Renewal Procedures and Qualifications).
  - (2) The building must be kept in good repair; electrical, heating, and cooling must be maintained in a safe manner. DHS may require the facility sponsor or licensee to submit evidence to this effect, consisting of a report from the fire marshal, city/county building official having jurisdiction, licensed electrician, or a registered professional engineer. Use of electrical appliances, devices, and lamps must be such as not to overload circuits or cause excessive lengths of extension cords.
  - (3) Existing furnace and water heater installations may be continued in service, subject to approval by DHS.
  - (4) In large Type B facilities, all draperies and other window coverings in public or common areas, and in bedrooms and/or living units must be flame resistant. In large Type A facilities, draperies must be flame resistant, where smoking is permitted.
  - (5) In large facilities, all new floor carpet installed in public or common spaces after the initial inspection by the department must be Class I or II based on the "Critical Radiant Flux" ratings. Proper documentation must be provided.
  - (6) Open flame heating devices are prohibited. All fuel burning heating devices must be vented. Working fireplaces are acceptable if of safe design and construction and if screened or otherwise enclosed.
  - (7) There must be at least one telephone in the facility available to both staff and residents for use in case of an emergency. Emergency telephone numbers, including at least fire, police, ambulance, EMS, and poison control center, must be posted conspicuously at or near the telephone.

- (8) An initial pressure test of facility gas lines from the meter must be provided. Additional pressure tests will be required when the facility has major renovations or additions where the gas service is interrupted. All gas heating systems must be checked prior to the heating season for proper operation and safety by persons who are licensed or approved by the State of Texas to inspect such equipment. A record of this service must be maintained by the facility. Any unsatisfactory conditions must be corrected promptly.
- (9) Exterior and interior stairs must have handrails that are firmly secured to prevent falls.
- (10) Cooling and heating must be provided for occupant comfort. Conditioning systems must be capable of maintaining the comfort ranges of 68 degrees Fahrenheit to 82 degrees Fahrenheit in resident-use areas. A facility constructed or licensed after August 1, 2004, must have a central air conditioning system, or a substantially similar air conditioning system, that is capable of maintaining a temperature suitable for resident comfort within areas used by residents. Heating, ventilating, and air conditioning (HVAC) equipment must comply with the provisions of NFPA 90A or 90B, as applicable. NFPA 90A requires automatic shut down upon activation of the fire alarm in HVAC systems of over 2,000 cubic feet per minute (cfm) capacity.
- (11) The Illumination Engineering Society of North America recommendations must be followed to achieve proper illumination characteristics and lighting levels throughout the facility. Minimum illumination must be 10 footcandles in resident rooms during the day and 20 footcandles in corridors, staff stations, dining rooms, lobbies, toilets, bathing facilities, laundries, stairways and elevators during the day. Illumination requirements for these areas apply to lighting throughout the space and should be measured at approximately 30 inches above the floor anywhere in the room. Minimum illumination for medication preparation or storage areas, kitchens, and staff station desks must be 50 footcandles during the day. Illumination requirements for these areas apply to the task performed and should be measured on the tasks.
- (12) All buildings three floors or higher and in facilities that provide services, treatment, or social activities on floors above or below the level of discharge and which house mobility impaired residents must have a passenger elevator. The lowest level of discharge will be the first floor for determining floor level.
- (13) Floor, ceiling, and wall finish materials must be complete and in place to provide a sanitary and structurally safe environment.
- (14) All equipment requiring periodic maintenance, testing, and servicing must be reasonably accessible. Necessary equipment to conduct these services, such as ladders, specific tools, and keys, must be readily available on site. Access panels (20" x 20" minimum) must be provided for building maintenance and must be located for reasonable access to equipment or barriers installed in the attic or other concealed spaces.
- (15) The facility must implement procedures, in accordance with the standards and recommendations of the Compressed Gas Association, that assure safe and sanitary use and storage of oxygen. Liquid oxygen containers must be certified by Underwriters Laboratory (UL) or other approved testing laboratory for compliance with NFPA 50 requirements. The facility is responsible for defining all potential hazards both graphically and verbally to all persons involved in the use of liquid oxygen and ensuring the liquid oxygen provider does also.

- (j) Portable fire extinguishers. Portable fire extinguishers must be provided and maintained to comply with the provisions of the National Fire Protection Association (NFPA) 10. This includes such items as type of extinguishers (A, B, or C), location and spacing, mounting heights, monthly inspections by staff, yearly inspections by a licensed agent (with any necessary servicing), and hydrostatic testing as recommended by the manufacturer.
- (1) Extinguishers in resident corridors must be spaced so that travel distance is not more than 75 feet. The minimum size of extinguishers must be either 2½ gallon for water type or five pound for ABC type. In large facilities, at least one portable Underwriters Laboratory (U.L.) or factory mutual (F.M.)-approved five-pound Class B:C dry chemical fire extinguisher, rechargeable type, is required in each laundry, kitchen, and walk-in mechanical room.
  - (2) Extinguishers must be installed on supplied hangers or brackets or be mounted in cabinets approved by the Texas Department of Human Services (DHS).
  - (3) Extinguishers must be surface wall-mounted or recessed in cabinets where they are not subject to physical damage or dislodgement.
  - (4) Extinguishers having a gross weight not exceeding 40 pounds must be installed so that the top of the extinguisher is not more than five feet above the floor. Extinguishers with a gross weight greater than 40 pounds must be installed so the top of the extinguisher is not more than 3½ feet above the floor. The clearance between the bottom of the extinguisher and the floor must not be less than four inches.
  - (5) Portable extinguishers provided in hazardous rooms must be located as close as possible to the exit door opening and on the latch (knob) side.
  - (6) Staff must be appropriately trained in the use of each type of extinguisher in the facility.
  - (7) Regular monthly inspections or "quick checks" must be made by facility representatives to assure that extinguishers are in the proper location, condition, and working order. Annual maintenance or "thorough checks" must be accomplished in accordance with National Fire Protection Association Standard Number 10A (NFPA 10A) by competent personnel licensed or certified to perform servicing by the State Fire Marshal. Unserviceable extinguishers must be replaced.
- (k) Waste and storage containers.
- (1) Metal waste baskets of substantial gauge or any U.L. or F.M. approved containers must be provided in large Type B facilities and in all facilities in all areas where smoking is permitted.
  - (2) Garbage, waste, or trash containers provided for kitchens, janitor closets, laundries, mechanical or boiler rooms, general storage, and similar places must be made of metal or any U.L. or F.M. approved material, having a close fitting cover. Disposable plastic liners may be used in these containers for sanitation.
- (l) Accessibility provisions. The physical plant of all large facilities and all other facilities housing residents with physical disabilities and/or mobility impairments must comply with applicable federal, state, and local requirements for persons with disabilities.

- (m) Resident accommodations.
  - (1) Resident bedrooms.
    - (A) Bedroom usable floor space for Type A facilities must not be less than 80 square feet for a one-bed room and not less than 60 square feet per bed for a multiple bed room. A bedroom must be not less than eight feet in the smallest dimension, unless specifically approved otherwise by the department. Bedrooms for persons with physical disabilities and/or mobility impairment must meet accessibility standards for access around the bed or beds, i.e., minimum of 3' -0" clear width for access aisles.
    - (B) Bedroom usable floor space for Type B facilities must be not less than 100 square feet per bed for a single-bed room and not less than 80 square feet per bed for a multiple-bed room. Bedrooms for persons with physical disabilities and/or mobility impairment must meet accessibility standards for access around the bed or beds, i.e., minimum of 3'-0" clear width for access aisles. A bedroom must not be less than ten feet in the smallest dimension unless specifically approved otherwise by DHS.
    - (C) In facilities that have living units consisting of separate living/dining spaces and bedrooms, 10% of the required bedroom square footage may be included as part of the living/dining space.
    - (D) A facility must have no more than 50% of its beds in bedrooms of three or more. A bedroom must have no more than four beds.
    - (E) Each bedroom must have at least one operable window with outside exposure. The window sill must be no higher than 44" from the floor and must be at or above grade level. The window will be operable from the inside, without the use of tools or special devices, and provide an operable section with a clear opening of not less than 5.7 square feet (minimum width of 20" X 41.2" high and minimum height of 24" X 34.2" wide). Windows required for evacuation will not be blocked by bars, shrubs, or any obstacle that would impede evacuation. Exceptions are as follows.
      - (i) In large Type B facilities and other facilities protected throughout by an approved automatic sprinkler system, the window opening size may be smaller than the minimum size listed but must permit the venting of products of combustion in accordance with the Life Safety Code for Healthcare Occupancy. The total window area in a bedroom must not be less than 8% of the required bedroom size.
      - (ii) In existing buildings, if the window is not required for the secondary means of escape, the window size and sill height requirements will not apply provided the windows meet the Uniform Building Code requirements or local building code.
    - (F) In the event the resident does not provide his or her own furnishings, the facility must provide for each resident a bed with mattress, chair, table or dresser, and enclosed closet space for clothing and personal belongings. Drawer space must be provided. Furnishings provided by the facility must be maintained in good repair.
    - (G) All resident rooms must open upon an exit, corridor, living area, or public area and must be arranged for convenient resident access to dining and recreation areas.

- (H) A staff or attendant area must be provided on each floor or in each separate building. The area must consist of a desk or writing surface and telephone. An exception is that Type A facilities, two -story or less in height, with separate buildings grouped together, and connected by covered walks, need not have staff or attendant areas on each floor or in each building, provided that the areas are not more than 200 feet walking distance from the furthest resident living unit. The areas must have a communication system and fire alarm annunciation indicating the units served.
  - (I) Facilities which consist of two or more floors or separate buildings must have a communication system from each resident living unit to a central staff location. This communication system may be a direct telephone, nurse call, or intercom.
- (2) Resident toilet and bathing facilities.
- (A) All bedrooms must be served by separate private, connecting, or general toilet rooms for each sex (if facility houses both sexes). General toilet room or bathing room must be accessible from a corridor or public space. A lavatory must be readily accessible to each water closet. At least one water closet, lavatory, and bathing unit must be provided on each sleeping floor accessible to residents of that floor.
  - (B) One water closet and one lavatory for each six occupants or fraction thereof (portion less than six) is required. One tub or shower for each ten occupants or fraction thereof is required.
  - (C) Privacy partitions and/or curtains must be provided at water closets and bathing units in rooms for multi-resident use.
  - (D) Tubs and showers must have non-slip bottoms or floor surfaces, either built-in or applied to the surface.
  - (E) Resident-use hot water for lavatories and bathing units will be maintained between 100 degrees Fahrenheit and 120 degrees Fahrenheit.
  - (F) Towels, soap, and toilet tissue must be available at all times for individual resident use.
- (3) Resident living areas.
- (A) Social-diversional spaces such as living rooms, day rooms, lounges, sun rooms, etc., must be provided and have appropriate furniture. A minimum of 120 square feet must be provided in at least one space regardless of number of residents. This space must have exterior windows providing a view of the outside.

- (B) The total space requirement for social-diversional areas must be provided on a sliding scale as follows:

<b>No. of Beds</b>	<b>Area Per Bed Minimum</b>
04-16	15 sq. feet (min. 120 sq. ft.)
17-39	13 sq. feet
40-59	12 sq. feet
60+	10 sq. feet

- (C) Where a required way of exit (or a service way) is through such living or dining area, a pathway equal to the corridor width will normally be deducted for calculation purposes and discounted from that area. Such exit pathways must be kept clear of obstructions.

(4) Resident dining areas.

- (A) A dining area must be provided and have appropriate furnishings. A minimum of 120 square feet must be provided in at least one space, regardless of number of residents. This space must have exterior windows providing a view of the outside.
- (B) Access to a dining area from the resident living units or bedrooms must be covered.
- (C) The total space requirement for a dining area must be provided on a sliding scale as follows:

<b>No. of Beds</b>	<b>Area Per Bed Minimum</b>
04-16	15 sq. feet (min. 120 sq. ft.)
17-39	13 sq. feet
40-59	12 sq. feet
60+	10 sq. feet

- (D) The total living-dining area(s) can be a single or interconnecting space with a minimum of 240 square feet of area.

(5) Storage areas. The facility must provide sufficient separate storage spaces or areas for the following:

- (A) administration for records and office supplies;
- (B) locked areas for medications and medical supplies. Poisons must be stored in a locked area and separate from all medications and preparation;

- (C) equipment supplied by the facility for resident needs such as wheelchairs, walkers, beds, mattresses, etc.;
  - (D) cleaning supplies (janitorial needs);
  - (E) food storage;
  - (F) clean linens and towels if furnished by the facility;
  - (G) lawn and maintenance equipment, if needed;
  - (H) janitor(s) closet with deep sink and hot and cold water (large facilities only); and
  - (I) soiled linen storage or holding room(s), if the facility furnishes linen.
- (6) Kitchen.
- (A) The facility must have a kitchen or dietary area to meet the general food service needs of the residents. It must include provisions for the storage, refrigeration, preparation, and serving of food; for dish and utensil cleaning; and for refuse storage and removal. Exception: Food may be prepared off-site or in a separate building provided that the food is served at the proper temperature and transported in a sanitary manner.
  - (B) Kitchens (main/dietary) for facilities serving 17 or more non-employees per meal on a routine basis must be as follows.
    - (i) Kitchens are evaluated on the basis of their performance in the sanitary and efficient preparation and serving of meals to residents and compliance with provisions covering dietary service in §92.41(m)(18) of this chapter (relating to Standards for Type A, Type B, and Type E Assisted Living Facilities).
      - (I) Consideration must be given to planning for the type of meals served, the overall building design, the food service equipment, arrangement, and the work flow involved in the preparation and delivery of food.
      - (II) Plans must include a detailed kitchen layout designed by a registered or licensed dietitian or architect having knowledge in the design of food service operations.
    - (ii) Kitchens must be designed so that room temperature, at peak load (summertime), must not exceed 85 degrees Fahrenheit measured over the room at the five foot level. The amount of supply air must take into account the large quantities of air that may be exhausted at the range hood and dishwashing area.
    - (iii) Facilities for washing and sanitizing dishes and cooking utensils must be provided. The kitchen must contain a multi-compartment pot sink large enough to immerse pots and pans, and a mechanical dishwasher for washing and sanitizing dishes. Separation of soiled and clean dish areas must be maintained, including air flow.
    - (iv) A food preparation sink must be provided. It must be separate from the pot and hand sinks.

- (v) A supply of hot and cold water must be provided. Hot water for sanitizing purposes must be 180 degrees Fahrenheit or the manufacturer's suggested temperature for chemical sanitizers.
  - (vi) The kitchen must be provided with a hand-washing lavatory in the food preparation area with hot and cold water, soap, towel dispenser, and waste receptacle. The dish room area must have ready access to a handwashing lavatory.
  - (vii) Staff restroom facilities with lavatory must be directly accessible to kitchen staff without traversing resident use areas. The rest room must not open directly into the kitchen (i.e., provide a vestibule). An exception is that staff rest rooms in existing facilities must be provided, but may be located outside of the kitchen area.
  - (viii) Janitorial facilities must be provided exclusively for the kitchen and must be located in the kitchen area. An exception is that Janitorial closets in existing facilities may be located outside of the kitchen area provided sanitary procedures are used to reduce the possibility of cross-contamination.
  - (ix) Non-absorbent smooth finishes or surfaces must be used on kitchen floors, walls and ceilings. Such surfaces must be capable of being routinely cleaned and sanitized to maintain a healthful environment. Counter and cabinet surfaces, inside and outside, must also have smooth, cleanable, non-porous finishes.
  - (x) Doors between kitchen and dining or serving areas must have ¼-inch fixed wire glass view panel mounted in a steel frame.
  - (xi) A garbage can or cart washing area with drain and hot water must be provided either on the interior or exterior of the facility.
  - (xii) Floor drains must be provided in the kitchen and dishwashing areas. Exception: Floor drains are not required in existing facilities provided the floors are kept clean.
  - (xiii) A commercial range must be provided and equipped with a commercial range hood and exhaust designed and installed in accordance with NFPA 96. Small facilities with residential ranges may have residential range hoods, if they meet the Uniform Building Code (or local building code).
  - (xiv) Grease traps must be provided as required.
- (C) Food storage areas for large facilities must be as follows.
- (i) Food storage areas must provide for storage of a four-day minimum supply of non-perishable foods at all times.
  - (ii) Shelves must be adjustable wire type. An exception is that existing facilities with wood shelves may continue to use the shelves provided they are kept sealed and clean.
  - (iii) Walls and floors must have a non-absorbent finish to provide a cleanable surface.

- (iv) Food must not be stored on the floor. Dollies, racks, pallets, or wheeled containers may be used to elevate foods not stored on shelving.
  - (v) Dry foods storage must have an effective venting system to provide for positive air circulation.
  - (vi) The maximum room temperature for food storage must not exceed 85 degrees Fahrenheit at any time. The measurement must be taken at the highest food storage level, but not less than five feet from the floor.
  - (vii) Food storage areas may be located apart from the food preparation area as long as there is space adjacent to the kitchen for necessary daily usage.
- (D) Auxiliary serving kitchens (not contiguous to food preparation/serving area) must be as follows.
- (i) Where service areas other than the kitchen are used to dispense foods, these must be designated as food service areas and must have equipment for maintaining required food temperatures while serving.
  - (ii) Separate food service areas must have handwashing facilities as part of the food service area.
  - (iii) Finishes of all surfaces, except ceilings, must be the same as those required for dietary kitchens or comparable areas.
- (7) Laundry/linen services.
- (A) A large assisted living facility which co-mingles and processes laundry on-site in a central location must comply with the following.
- (i) The laundry must be separated and provided with sprinkler protection if located in the main building. (Separation must consist of a one-hour fire rated partition carried to the underside of the floor or roof deck above.) Access doors must be from the exterior or interior non-resident use areas, such as a small vestibule or service corridor.
  - (ii) The laundry must be provided with the following physical features:
    - (I) a soiled linen receiving, holding, and sorting room with a floor drain and forced exhaust to the exterior which must operate at all times there is soiled linen being held in this area. (This may be combined with the washer section.);
    - (II) a general laundry work area which is separated by partitioning two areas—a washer section and a dryer section;
    - (III) a storage area for laundry supplies;
    - (IV) a folding area;
    - (V) adequate air supply and ventilation for staff comfort without having to rely on opening a door that is part of the fire wall separation; and

- (VI) provisions to exhaust heat from dryers and to separate dryer make-up air from the habitable work areas of the laundry.
- (B) If linen is processed off the site, the following must be provided on the premises:
  - (i) a soiled linen holding room (provided with adequate forced exhaust ducted to the exterior); and
  - (ii) a clean linen receiving, holding, inspection, sorting or folding, and storage room(s).
- (C) Resident-use laundry, if provided, must utilize residential type washers and dryers. If more than three washers and three dryers are located in one space, the area must be one-hour fire separated or provided with sprinkler protection.

### **§92.63 Construction and Initial Survey of Completed Construction**

- (a) Construction phase.
  - (1) The Texas Department of Human Services (DHS), Long Term Care-Regulatory, Licensing Section Austin, Texas, must be notified in writing of construction start.
  - (2) All construction must be done in accordance with minimum licensing requirements. It is the sponsor's responsibility to employ qualified personnel to prepare the contract documents for construction of a new facility or remodeling of an existing facility. Contract documents for additions and remodeling and for the construction of an entirely new facility must be prepared by an architect licensed by the Texas State Board of Architectural Examiners. Drawings must bear the seal of the architect. Certain parts of final plans, designs, and specifications must bear the seal of a registered professional engineer approved by the State Board of Registration for Professional Engineers to operate in Texas. These certain parts include sheets and sections covering structural, electrical, mechanical, and sanitary engineering.
    - (A) Remodeling is the construction, removal, or relocation of walls and partitions; the construction of foundations, floors, or ceiling-roof assemblies; or the expanding or altering of safety systems (including, but not limited to, sprinkler, fire alarm, and emergency systems).
    - (B) General maintenance and repairs of existing material and equipment, repainting, applications of new floor, wall, or ceiling finishes, or similar projects are not included as remodeling, unless as a part of new construction. DHS must be provided flame spread documentation for new materials applied as finishes.
- (b) Contract documents.
  - (1) Site plan documents must include grade contours; streets (with names); North arrow; fire hydrants, fire lanes, utilities, public or private; fences; unusual site conditions, such as ditches, low water levels, other buildings on-site; and indications of buildings five feet or less beyond site property lines.
  - (2) Foundation plan documents must include general foundation design and details.

- (3) Floor plan documents must include room names, numbers, and usages; doors (numbered) including swing; windows; legend or clarification of wall types; dimensions; fixed equipment; plumbing fixtures; and kitchen basic layout; and identification of all smoke barrier walls (outside wall to outside wall) or fire walls.
- (4) For both new construction and additions or remodeling to existing buildings, an overall plan of the entire building must be drawn or reduced to fit on an 8½ inch by 11 inch sheet; submit two reduced plans for file record. See subsection (d)(3) of this section.
- (5) Schedules must include door materials, widths, types; window materials, sizes, types; room finishes; and special hardware.
- (6) Elevations and roof plan must include exterior elevations, including material note indications and any roof top equipment; roof slopes, drains, and gas piping, and interior elevations where needed for special conditions.
- (7) Details must include wall sections as needed (especially for special conditions); cabinet and built-in work, basic design only; cross sections through buildings as needed; and miscellaneous details and enlargements as needed.
- (8) Building structure documents must include structural framing layout and details (primarily for column, beam, joist, and structural frame building); roof framing layout (when this cannot be adequately shown on cross section); cross sections in quantity and detail to show sufficient structural design and structural details as necessary to assure adequate structural design, also calculated design loads.
- (9) Electrical documents must include electrical layout, including lights, convenience outlets, equipment outlets, switches, and other electrical outlets and devices; service, circuiting, distribution, and panel diagrams; exit light system (exit signs and emergency egress lighting); emergency electrical provisions (such as generators and panels); fire alarm and similar systems (such as control panel, devices, and alarms); sizes and details sufficient to assure safe and properly operating systems; and a staff communication system.
- (10) Plumbing documents must include plumbing layout with pipe sizes and details sufficient to assure safe and properly operating systems, water systems, sanitary systems, gas systems, other systems normally considered under the scope of plumbing, fixtures, and provisions for combustion air supply.
- (11) Heating, ventilating and air-conditioning systems (HVAC) documents must include sufficient details of HVAC systems and components to assure a safe and properly operating installation including, but not limited to, heating, ventilating, and air-conditioning layout, ducts, protection of duct inlets and outlets, combustion air, piping, exhausts, and duct smoke and/or fire dampers; and equipment types, sizes, and locations.
- (12) Sprinkler system documents must include plans and details of NFPA designed systems; plans and details of partial systems provided only for hazardous areas; electrical devices interconnected to the alarm system.
- (13) Other layout, plans, or details as may be necessary for a clear understanding of the design and scope of the project; including plans covering private water or sewer systems must be reviewed by the local health or wastewater authority having jurisdiction. If no local authority, then the plans will be reviewed by DHS.
- (14) Specifications must include installation techniques, quality standards and/or manufacturers, references to specific codes and standards, design criteria, special equipment, hardware, painting, and any others as needed to amplify drawings and notes.

- (c) Initial survey of completed construction.
- (1) Upon completion of construction, including grounds and basic equipment and furnishings, an initial architectural inspection of the facility, including additions or remodeled areas, is required to be performed by DHS prior to occupancy. The completed construction must have the written approval of the local authorities having jurisdiction, including the fire marshal, health department, and building inspector.
  - (2) The Licensure Section, Long Term Care-Regulatory, must be notified of completion of construction or pending completion in order to facilitate the initial architectural inspection. DHS will schedule an inspection as soon as possible.
  - (3) After the completed construction has been surveyed by DHS and found acceptable, this information will be conveyed to the licensing officer of DHS as part of the information needed to issue a license to the facility. In the case of additions or remodeling of existing facilities, a revision or modification to an existing license may be necessary. Note that the building, grades, drives, and parking must essentially be 100% complete at the time of this initial visit for occupancy approval and licensing, including basic furnishings and operational needs. A facility may accept up to three residents between the time it receives initial approval from the architectural section and the time the license is issued.
  - (4) The following documents must be available to DHS's surveyor at the time of the survey of the completed building:
    - (A) written approval of local authorities as called for in paragraph (1) of this subsection;
    - (B) written certification of the fire alarm system by the installing agency (Form FML-009) of the Texas State Fire Marshal);
    - (C) documentation of materials used in the building which are required to have a specific limited fire or flame spread rating including special wall finishes or floor coverings, flame retardant curtains (including cubicle curtains), rated ceilings, etc. This must include a signed letter from the installer, in the case of carpeting, etc., verifying that the carpeting installed is named in the laboratory test document;
    - (D) approval of the completed sprinkler system installation by the designing engineer. A copy of the material list and test certification must be available;
    - (E) service contracts for maintenance and testing of alarm systems, sprinkler systems, etc.;
    - (F) a copy of gas test results of the facility's gas lines from the meter;
    - (G) a written statement from an architect/engineer stating that, from periodic onsite observation visits, the facility as constructed is, to the best of his/her knowledge and belief, in substantial compliance with his/her construction documents, the Life Safety Code, DHS licensure standards, and local codes; and
    - (H) the contract documents specified in subsection (b) of this section.
- (d) Nonapproval of new construction.
- (1) If, during the initial on-site survey of completed construction, the surveyor finds certain basic requirements not met, he may recommend to the department that the facility not yet be licensed and approved for occupancy. Such basic items may include the following:

- (A) construction which does not meet minimum code or licensure standards for basic requirements such as corridors being less than required width, ceilings installed at less than the minimum seven-foot six-inch height, resident bedroom dimensions less than required, and other such features which would disrupt or otherwise adversely affect the residents and staff if corrected after occupancy;
  - (B) no written approval by local authorities;
  - (C) fire protection systems not completely installed or not functioning properly, including, but not limited to, fire alarm systems, emergency power and lighting, and sprinkler systems;
  - (D) required exits not all usable according to NFPA 101 requirements;
  - (E) telephone not installed or not properly working;
  - (F) sufficient basic furnishings, essential appliances, and equipment are not installed or not functioning; and
  - (G) any other basic operational or safety feature which the surveyor, as the authority having jurisdiction, encounters which in his judgment would preclude safe and normal occupancy by residents on that day.
- (2) If the surveyor encounters only less basic (and less important) deficiencies, licensure may be recommended based on an approved written plan of correction from the facility's administrator.
  - (3) Copies of reduced size floor plans on an 8½ inch by 11 inch sheet must be submitted in duplicate to the department for record/file use and for the facility's use and for facility's use for evacuation plan, fire alarm zone identification, etc. The plan must contain basic legible information such as scale, room usage names, actual bedroom numbers, doors, windows, and any other pertinent information.

**§92.64 Plans, Approvals, and Construction Procedures**

At the option of the applicant, the Texas Department of Human Services (DHS) reviews plans for new buildings, additions, conversion of buildings not licensed by DHS, or remodeling of existing licensed facilities. DHS informs the applicant of the results of the review within 30 days. If the plans comply with DHS's architectural requirements, DHS may not subsequently change the architectural requirement applicable to the project unless the change is required by federal law or the applicant fails to complete the project within a reasonable time.

- (1) Submittal of plans.
  - (A) For review of plans, before construction is begun, submit one copy of working drawings and specifications (contract documents) in sufficient detail to interpret compliance with these standards and assure proper construction. Documents must be prepared according to accepted architectural practice and must include general construction, special conditions, and schedules.

- (B) Final copies of plans must have (in the reproduction process by which plans are reproduced) a title block showing name of facility, person, or organization preparing the sheet, sheet numbers, facility address, and drawing date. Sheets and sections covering structural, electrical, mechanical, and sanitary engineering final plans, designs, and specifications must bear the seal of a registered professional engineer approved by the State Board of Registration for Professional Engineers to operate in Texas. Contract documents for additions, remodeling, and construction of an entirely new facility must be prepared by an architect licensed by the Texas State Board of Architectural Examiners. Drawings must bear the seal of the architect.
  - (C) A final plan for a major addition to a facility must include a basic layout to scale of the entire building onto which the addition connects. North direction must be shown. Usually the entire basic layout can be to scale such as 1/16 inch per foot or 1/32 inch per foot for very large buildings.
  - (D) Plans and specifications for conversions or remodeling must be complete for all parts and features involved.
  - (E) The sponsor is responsible for employing qualified personnel to prepare the contract documents for construction. If the contract documents have errors or omissions to the extent that conformance with standards cannot be reasonably assured or determined, a revised set of documents for review may be requested.
  - (F) The review of plans and specifications by DHS is based on general utility, the minimum licensing standards, and conformance of the Life Safety Code, and is not to be construed as all-inclusive approval of the structural, electrical, or mechanical components, nor does it include a review of building plans for compliance with the Texas Accessibility Standards as administered and enforced by the Texas Department of Licensing and Regulation.
  - (G) Fees for plan review will be required in accordance with §92.20 of this title (relating to License Fees).
- (2) Contract documents.
- (A) Site plan documents must include grade contours; streets (with names); North arrow; fire hydrants, fire lanes, utilities, public or private; fences; and unusual site conditions, such as ditches, low water levels, other buildings on-site, and indications of buildings five feet or less beyond site property lines.
  - (B) Foundation plan documents must include general foundation design and details.
  - (C) Floor plan documents must include room names, numbers, and usages; doors (numbered) including swing; windows; legend or clarification of wall types; dimensions; fixed equipment; plumbing fixtures; kitchen basic layout; and identification of all smoke barrier walls (outside wall to outside wall) or fire walls.
  - (D) For both new construction and additions or remodeling to existing buildings, an overall plan of the entire building must be drawn or reduced to fit on an 8 1/2 inch by 11 inch sheet.
  - (E) Schedules must include door materials, widths, and types; window materials, sizes, and types; room finishes; and special hardware.
  - (F) Elevations and roof plan must include exterior elevations, including material note indications and any roof top equipment; roof slopes, drains, gas piping, etc., and interior elevations where needed for special conditions.

- (G) Details must include wall sections as needed, especially for special conditions; cabinet and built-in work, basic design only; cross sections through buildings as needed and miscellaneous details and enlargements as needed.
  - (H) Building structure documents must include structural framing layout and details (primarily for column, beam, joist, and structural building); roof framing layout (when cannot be adequately shown on cross section); and cross sections in quantity and detail to show sufficient structural design and structural details as necessary to assure adequate structural design and calculated design loads.
  - (I) Electrical documents must include electrical layout, including lights, convenience outlets, equipment outlets, switches, and other electrical outlets and devices; service, circuiting, distribution, and panel diagrams; exit light system (exit signs and emergency egress lighting); emergency electrical provisions (such as generators and panels); staff communication system; fire alarm and similar systems (such as control panel, devices, and alarms); and sizes and details sufficient to assure safe and properly operating systems.
  - (J) Plumbing documents must include plumbing layout with pipe sizes and details sufficient to assure safe and properly operating systems, water systems, sanitary systems, gas systems, and other systems normally considered under the scope of plumbing, fixtures, and provisions for combustion air supply.
  - (K) Heating, ventilating and air-conditioning systems (HVAC) documents must include sufficient details of HVAC systems and components to assure a safe and properly operating installation including, but not limited to, heating, ventilating, and air-conditioning layout, ducts, protection of duct inlets and outlets, combustion air, piping, exhausts, and duct smoke and/or fire dampers; and equipment types, sizes, and locations.
  - (L) Sprinkler system documents must include plans and details of National Fire Protection Association (NFPA) designed systems; plans and details of partial systems provided only for hazardous areas; and electrical devices interconnected to the alarm system.
  - (M) Specifications must include installation techniques; quality standards and/or manufacturers; references to specific codes and standards; design criteria; special equipment; hardware; finishes; and any others as needed to amplify drawings and notes.
  - (N) Other layout, plans, or details as may be necessary for a clear understanding of the design and scope of the project, including plans covering private water or sewer systems, must be reviewed by local health or wastewater authority having jurisdiction.
- (3) Construction phase.
- (A) DHS must be notified in writing prior to construction start.
  - (B) All construction not done in accordance with the completed plans and specifications as submitted for review and as modified in accordance with review requirements will require additional drawings if the change is significant.

- (4) Initial survey of completed construction.
- (A) Upon completion of construction, including grounds and basic equipment and furnishings, a final construction inspection (initial survey) of the facility must be performed by DHS prior to admitting residents, unless a provisional license has been granted. An initial architectural inspection will be scheduled after DHS receives a notarized licensure application, required fee, fire marshall approval, and a letter from an architect or engineer stating to the best of their knowledge that the facility meets the architectural requirements for licensure.
  - (B) After DHS surveys the completed construction and finds it acceptable, DHS forwards this information to the Facility Enrollment Section as part of the information needed to issue a license to the facility. In the case of additions or remodeling of existing facilities, a revision or modification to an existing license may be necessary. Note that the building, including basic furnishings and operational needs, grades, drives, and parking must be essentially 100% complete at the time of this initial visit for occupancy approval and licensing. A facility may accept up to three residents between the time it receives initial approval from DHS and the time the license is issued unless a provisional license has been granted.
  - (C) The following documents must be available to DHS's NFPA 101 inspecting surveyor at the time of the survey of the completed building:
    - (i) written approval of local authorities as required in subparagraph (A) of this paragraph;
    - (ii) written certification of the fire alarm system by the installing agency (Form FML-009) of the Texas State Fire Marshal);
    - (iii) documentation of materials used in the building which are required to have a specific limited fire or flame spread rating, including special wall finishes or floor coverings, flame retardant curtains (including cubicle curtains), rated ceilings, etc., and, in the case of carpeting, a signed letter from the installer verifying that the carpeting installed is named in the laboratory test document;
    - (iv) approval of the completed sprinkler system installation by the Texas Department of Insurance or designing engineer. A copy of the material list and test certification must be available;
    - (v) service contracts for maintenance and testing of alarm systems, sprinkler systems, etc.;
    - (vi) a copy of gas test results of the facility's gas lines from the meter;
    - (vii) a written statement from an architect/engineer stating, to the best of his/her knowledge, the building was constructed in substantial compliance with the construction documents, the Life Safety Code, DHS licensure standards, and local codes; and
    - (viii) any other such documentation as needed.

- (5) Nonapproval of new construction.
- (A) If, during the initial on-site survey of completed construction, the surveyor finds certain basic requirements not met, DHS may recommend that the facility not be licensed and approved for occupancy. Such items may include the following:
- (i) substantial changes made during construction which were not submitted to DHS for review and which may require revised "asbuilt" drawings to cover the changes. This may include architectural, structural, mechanical, and electrical items as specified in paragraph (3)(B) of this section);
  - (ii) construction which does not meet minimum code or licensure standards, such as corridors being less than required width, ceilings installed at less than the minimum seven-foot six-inch height, resident bedroom dimensions less than required, and other such features which would disrupt or otherwise adversely affect the residents and staff if corrected after occupancy;
  - (iii) no written approval by local authorities;
  - (iv) fire protection systems, including, but not limited to, fire alarm systems, emergency power and lighting, and sprinkler systems, not completely installed or not functioning properly;
  - (v) required exits not all usable according to NFPA 101 requirements;
  - (vi) telephone not installed or not properly working;
  - (vii) sufficient basic furnishings, essential appliances, and equipment not installed or not functioning; and
  - (viii) any other basic operational or safety feature which would preclude safe and normal occupancy by residents on that day.
- (B) If the surveyor encounters only minor deficiencies, licensure may be recommended based on an approved written plan of correction from the facility's administrator.
- (C) Copies of reduced size floor plans on an 8 1/2 inch by 11 inch sheet must be submitted in duplicate to DHS for record/file use and for the facility's use for evacuation plan, fire alarm zone identification, etc. The plan must contain basic legible information such as scale, room usage names, actual bedroom numbers, doors, windows, and any other pertinent information.

### **§92.71 Introduction and Application: Type E Facilities**

- (a) Classification of facilities. A Type E facility provides sleeping accommodations for 16 or fewer residents exclusive of "live-in" houseparents, family, or staff. Two-story buildings must meet all life safety code requirements in regard to protecting vertical openings, as specified in the 1988 edition of the National Fire Protection Association (NFPA) 101, Section 21-2.3.1.
- (b) Applicability of requirements for construction and life safety.
- (1) All buildings or structures, new or existing, must be in accordance with these standards. Any exceptions are specifically mentioned.
  - (2) For existing buildings and structures which are converted to assisted living occupancy, no residents will be admitted until all standards are met and approval for occupancy is granted by the licensing section of the Texas Department of Human Services (DHS).

- (3) Buildings and structures must conform to the 1988 edition of the National Fire Protection Association (NFPA) 101, as published by the National Fire Protection Association, Inc., Batterymarch Park, Quincy, Massachusetts 02269. DHS has the option, for new construction only, of accepting compliance with later editions of the code, in their entirety, when required by local building authorities.
  - (A) All Type E facilities must conform to NFPA 101, Chapter 21.
  - (B) Other chapters, sections, subsections, or paragraphs of the NFPA 101, such as Chapters 1 through 7 and Chapter 31, must apply as referenced or intended for their relation to Chapter 21.
- (4) New construction is subject to local codes. The description of the occupancy may vary with local codes. In the absence of local codes or their enforcement for new construction, the department will require conformance to the fundamentals of the following codes:
  - (A) the Uniform Building Code, 1988 edition by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601, 'R' Occupancy, Divisions 1 and 3, congregate residences;
  - (B) the Uniform Plumbing Code, 1988 edition, as published by the International Association of Plumbing and Mechanical Officials, 5032 Alhambra Avenue, Los Angeles, California 90032;
  - (C) the National Electrical Code as specified under NFPA 101; and
  - (D) the Lighting Handbook of the Illuminatory Engineering Society (IES) of North America for illumination systems' design and installation, except as may be modified in this subchapter.
- (5) An existing building either occupied as an assisted living facility at the time of initial inspection by DHS or converted to occupancy as an assisted living facility must meet all local requirements pertaining to that building for that occupancy. DHS will require the facility sponsor or licensee to submit evidence that local requirements are satisfied. When local laws, codes, or ordinances are more stringent than these standards for assisted living, the more stringent requirements will govern.
- (6) Buildings must be structurally sound with regard to actual or expected dead, live, and wind loads according to applicable building codes.
- (7) The facility must meet the provisions and requirements concerning accessibility for individuals with disabilities in the following laws and regulations: the Americans with Disabilities Act of 1990 (Title 42, United States Code, Chapter 126); Title 28, Code of Federal Regulations, Part 35; Texas Civil Statutes, Article 9102; and Title 16, Texas Administrative Code, Chapter 68. Plans for new construction, substantial renovations, modifications, and alterations must be submitted to the Texas Department of Licensing and Regulation (Attn: Elimination of Architectural Barriers Program) for accessibility approval under Article 9102.

**§92.72 General Requirements: Type E Facilities**

- (a) General. The concept of the National Fire Protection Association (NFPA) 101 Life Safety Code requirements for fire safety with regard to the residents is based on evacuation capability. In accordance with Chapter 21 of the Life Safety Code (relating to Residential Board and Care Occupancies), residents of Type E facilities are classified as "prompt" evacuation capability.
- (b) Evacuation procedures. Residents must be able to demonstrate to the Texas Department of Human Services (DHS) that they can travel from their living unit to a centralized space, such as lobby, living, or dining room within a 3-minute period without staff assistance.
- (c) Operational features.
  - (1) All fires causing damage to the facility and/or equipment must be reported to DHS within 72 hours. Any fire causing injury or death to a resident must be reported immediately. A telephone report must be followed by a written report on a form which will be supplied by DHS.
  - (2) Fire drills must be conducted quarterly on each shift with at least one drill conducted each month. The drills may be announced in advance to the residents. The drills must involve the participation of the staff in accordance with the emergency plan. Residents must be informed of evacuation procedures and locations of exits. All fire drills must be documented on a form provided by DHS.
  - (3) Smoking regulations must be established, and smoking areas must be designated for residents and staff. Ashtrays of noncombustible material and safe design must be provided in smoking areas.
  - (4) The administration must have in effect and available to all supervisory personnel written copies of a plan for the protection of all persons in the event of fire and for their remaining in place, for their evacuation to areas of refuge, and from the building when necessary. The plan must include special staff actions, including fire protection procedures needed to ensure the safety of any resident, and must be amended or revised when needed. All employees must be periodically instructed and kept informed with respect to their duties and responsibilities under the plan. A copy of the plan must be readily available at all times within the facility.
- (d) Construction.
  - (1) There must be separation from other occupancies. A common wall between an assisted living facility and another occupancy must be not less than a two-hour fire-rated partition (The partition must be as defined by National Fire Protection Association Standards.). A licensed nursing facility or licensed hospital is not considered another occupancy for this purpose. An exception is where an unlicensed occupancy occurs in the same building or structure and is so intermingled that separate safeguards are impracticable. The means of egress, construction, protection, and other safeguards must comply with the NFPA 101 requirements of the licensed occupancy.
  - (2) Interior wall and ceiling surfaces must have as the finished surface or as substrate or sheathing a fire resistance of not less than that provided by 3/8" gypsum board (20-minute fire rating), unless approved otherwise by DHS. A sprinkler system will not substitute for the minimum construction requirements.

- (3) Interior wall and ceiling finish must be Class C, or better. Flame spread rate requirements must be as specified in NFPA 101, §6-5. Flame spread is the rate of fire travel along the surface of a material. (This is different than other requirements for time-rated "burn through" resistance ratings, such as one-hour rated.) Flame spread ratings are Class A (0-25), Class B (26-75), and Class C (76-200).
  - (4) Doors between resident rooms and corridors or public spaces must be smoke-resisting doors that latch in their frames.
  - (5) All hazardous areas, as defined in the NFPA 101, Chapter 21, must be one-hour fire-separated or provided with sprinkler protection or both if considered severe. Gasoline, volatile materials, oil base paint, or similar products must not be stored in the building housing residents.
- (e) Fire alarm and sprinkler systems.
- (1) Fire alarm and smoke detection system. Facilities must provide a manual fire alarm system, with smoke detection that complies with Household Fire Warning Equipment (NFPA 74), in accordance with NFPA 101, Section 7-6. Exception: Existing facilities with 20-minute interior sheathing, no hazardous areas, interconnected smoke detectors on every level and in each bedroom, Class "C" or better interior finish, smoke resisting bedroom doors, and two remote exit routes are not required to have a manual pull.
  - (2) Sprinkler systems. When installed or required, sprinkler systems must meet the following criteria. Facilities may have a system that meets NFPA 13D requirements. Automatic sprinklers may be omitted in small compartmented areas, such as closets not over 24 square feet and bathrooms not over 55 square feet, provided such spaces are finished with lath and plaster, or materials with a 15-minute finish rating.
- (f) Site and location.
- (1) The facility must be serviced by a paid or volunteer fire fighting unit as approved by DHS. Water supply for fire fighting purposes must be as required and approved by the fire fighting unit.
  - (2) Any site or building conditions that are a fire hazard, health hazard, or physical hazard must have corrections made as determined by DHS.
  - (3) The facility must provide or arrange for nearby parking spaces for private vehicles of residents and visitors. A minimum of one space must be provided for each four beds or fraction thereof, or per local code, whichever is more stringent.
  - (4) Ramps, walks, and steps must be of slip-resistive texture and uniform, without irregularities. Ramps must not exceed 1:12 slope and must meet handicap standards for width. Guardrails, fences, or handrails must be provided where grades make an abrupt change in level.
  - (5) All outside areas, grounds, and adjacent buildings on the site must be maintained in good condition and kept free of rubbish, garbage, untended growth, etc., that may constitute a fire or health hazard. Site grades must provide for water drainage away from the structure to prevent ponding or standing water at or near the building.

- (g) Sanitation and housekeeping.
- (1) Wastewater and sewage must be discharged into an approved sewerage system or an onsite sewerage facility approved by the Texas Natural Resource Conservation Commission or its authorized agent.
  - (2) The water supply must be of safe, sanitary quality, suitable for use, and adequate in quantity and pressure, and must be obtained from a water supply system, the location, construction, and operation of which are approved by DHS.
  - (3) Waste, trash, and garbage must be disposed of from the premises at regular intervals in accordance with state and local practices. Excessive accumulations are not permitted. The facility must comply with 25 TAC §§1.131-1.137 (concerning Definition, Treatment, and Disposal of Special Waste from Health Care Related Facilities).
  - (4) Operable windows must be insect screened.
  - (5) An ongoing pest control program must be provided by facility staff or by contract with a licensed pest control company. The least toxic and least flammable effective chemicals must be used.
  - (6) All bathrooms, toilet rooms, and other odor-producing rooms or areas for soiled and unsanitary operations must be ventilated with operable windows or powered exhaust for odor control. Facilities may vent into an attic in accordance with the Uniform Building Code or local building code.
  - (7) In kitchens and in laundries, there must be procedures utilized by facility staff to avoid cross-contamination between clean and soiled utensils and linens.
  - (8) The facility must be kept free of accumulations of dirt, rubbish, dust, and hazards. Floors must be maintained in good condition and cleaned regularly; walls and ceilings must be structurally maintained, repaired, and repainted or cleaned as needed. Storage areas and cellars must be kept in an organized manner. No storage will be permitted in the attic spaces.
  - (9) The facility must be capable of being ventilated through the use of windows, mechanical ventilation, or a combination of both. Interior areas designated for smoking within the building must have mechanical ventilation directed to the exterior to remove smoke at the rate of 10 air changes per hour.
  - (10) If the facility provides linens to the residents, the quantity of available linen must meet the sanitary and cleanliness needs of the residents. Clean linens must be stored in a clean area.
- (h) General safety features. The facility must have an annual inspection by the local fire marshal.
- (1) The building must be kept in good repair; electrical, heating, and cooling must be maintained in a safe manner. DHS may require the facility sponsor or licensee to submit evidence to this effect, consisting of a report from the fire marshal, city/county building official having jurisdiction, licensed electrician, or a registered professional engineer. Use of electrical appliances, devices, and lamps must be such as not to overload circuits or cause excessive lengths of extension cords.
  - (2) Existing furnace and water heater installations may be continued in service, subject to approval by DHS.

- (3) Open flame heating devices are prohibited. All fuel burning heating devices must be vented. Working fireplaces are acceptable if of safe design and construction and if screened or otherwise enclosed.
  - (4) There must be at least one telephone in the facility available to both staff and residents for use in case of an emergency. Emergency telephone numbers, including at least fire, police, ambulance, EMS, and poison control center, must be posted conspicuously at or near the telephone.
  - (5) An initial pressure test of facility gas lines from the meter must be provided. Additional pressure tests will be required when the facility has major renovations or additions where the gas service is interrupted. All gas heating systems must be checked prior to the heating season for proper operation and safety by persons who are licensed or approved by the State of Texas to inspect such equipment. A record of this service must be maintained by the facility. Any unsatisfactory conditions must be corrected promptly.
  - (6) Exterior and interior stairs must have handrails that are firmly secured to prevent falls.
  - (7) Cooling and heating must be provided for occupant comfort. Conditioning systems must be capable of maintaining the comfort ranges of 68 degrees Fahrenheit to 82 degrees Fahrenheit in resident-use areas.
  - (8) The Illumination Engineering Society of North America recommendations must be followed to achieve proper illumination characteristics and lighting levels throughout the facility. Minimum illumination must be 10 footcandles in resident rooms during the day and 20 footcandles in corridors, staff stations, dining rooms, lobbies, toilets, bathing facilities, laundries, stairways, and elevators during the day. Illumination requirements for these areas apply to lighting throughout the space and should be measured at approximately 30 inches above the floor anywhere in the room. Minimum illumination for medication preparation or storage areas, kitchens, and staff station desks must be 50 footcandles during the day. Illumination requirements for these areas apply to the task performed and should be measured on the tasks.
  - (9) Floor, ceiling, and wall finish materials must be complete and in place to provide a sanitary and structurally safe environment.
- (i) Portable fire extinguishers. Portable fire extinguishers must be provided and maintained to comply with the provisions of NFPA 10. This includes such items as type of extinguishers (A, B, or C), location and spacing, mounting heights, monthly inspections by staff, yearly inspections by a licensed agent (with any necessary servicing), and hydrostatic testing as recommended by the manufacturer.
- (1) Extinguishers in resident corridors must be spaced so that travel distance is not more than 75 feet. The minimum size of extinguishers must be either 2 1/2 gallon for water type or five pound for ABC type.
  - (2) Extinguishers must be installed on supplied hangers or brackets or be mounted in cabinets approved by DHS.
  - (3) Extinguishers must be surface wall-mounted or recessed in cabinets where they are not subject to physical damage or dislodgement.

- (4) Extinguishers having a gross weight not exceeding 40 pounds must be installed so that the top of the extinguisher is not more than five feet above the floor. Extinguishers with a gross weight greater than 40 pounds must be installed so the top of the extinguisher is not more than 3 1/2 feet above the floor. The clearance between the bottom of the extinguisher and the floor must not be less than four inches.
  - (5) Portable extinguishers provided in hazardous rooms must be located as close as possible to the exit door opening and on the latch (knob) side.
  - (6) Staff must be appropriately trained in the use of each type of extinguisher in the facility.
  - (7) Regular monthly inspections or "quick checks" must be made by facility representatives to assure that extinguishers are in the proper location, condition, and working order. Annual maintenance or "thorough checks" must be accomplished in accordance with National Fire Protection Association Standard Number 10A (NFPA 10A) by competent personnel licensed or certified to perform servicing by the State Fire Marshal. Unserviceable extinguishers must be replaced.
- (j) Waste and storage containers.
- (1) Metal waste baskets of substantial gauge or any U.L. or F.M. approved containers must be provided in all areas where smoking is permitted.
  - (2) Garbage, waste, or trash containers provided for kitchens, janitor closets, laundries, mechanical or boiler rooms, general storage, and similar places must be made of metal or any U.L. or F.M. approved material, having a close fitting cover. Disposable plastic liners may be used in these containers for sanitation.
- (k) Accessibility provisions. The physical plant of facilities housing residents with physical disabilities and/or mobility impairments must comply with applicable federal, state, and local requirements for persons with disabilities.
- (l) Resident accommodations.
- (1) Resident bedrooms.
    - (A) Bedroom usable floor space must not be less than 80 square feet for a one-bedroom and not less than 60 square feet per bed for a multiple bedroom. A bedroom must be not less than eight feet in the smallest dimension, unless specifically approved otherwise by the department. Bedrooms for persons with physical disabilities and/or mobility impairment must meet accessibility standards for access around the bed or beds, a minimum of three feet clear width for access aisles.
    - (B) A bedroom must have no more than four beds.
    - (C) Each bedroom must have at least one operable window with outside exposure. The window sill must be no higher than 44 inches from the floor and must be at or above grade level. The window must be operable from the inside, without the use of tools or special devices, and provide an operable section with a clear opening of not less than 5.7 square feet (minimum width of 20 inches x 41.2 inches high and minimum height of 24 inches x 34.2 inches wide). Windows required for evacuation must not be blocked by bars, shrubs, or any obstacle that would impede evacuation. In existing buildings, if the window is not required for the secondary means of escape, the window size and sill height requirements will not apply, provided the windows meet the Uniform Building Code requirements or local building code.

- (D) In the event the resident does not provide his or her own furnishings, the facility must provide for each resident a bed with mattress, chair, table or dresser, and enclosed closet space for clothing and personal belongings. Drawer space must be provided. Furnishings provided by the facility must be maintained in good repair.
  - (E) All resident rooms must open upon an exit, corridor, living area, or public area and must be arranged for convenient resident access to dining and recreation areas.
  - (F) A staff or attendant area must be provided in each separate building. The area must consist of a desk or writing surface and telephone. An exception is that facilities with separate buildings grouped together, and connected by covered walks, need not have staff or attendant areas on each building, provided the areas are not more than 200 feet walking distance from the furthest resident living unit. The areas must have a communication system and fire alarm annunciation indicating the units served.
  - (G) Facilities which consist of separate buildings must have a communication system from each resident living unit to a central staff location. This communication system may be a direct telephone, nurse call, or intercom.
- (2) Resident toilet and bathing facilities.
- (A) All bedrooms must be served by separate private, connecting, or general toilet rooms for each sex, if a facility houses both sexes. The general toilet room or bathing room must be accessible from a corridor or public space. A lavatory must be readily accessible to each water closet. At least one water closet, lavatory, and bathing unit must be provided on each sleeping floor accessible to residents of that floor.
  - (B) One water closet and one lavatory for each six occupants or fraction thereof is required. One tub or shower for each 10 occupants or fraction thereof is required.
  - (C) Privacy partitions and/or curtains must be provided at water closets and bathing units in rooms for multi-resident use.
  - (D) Tubs and showers must have non-slip bottoms or floor surfaces, either built-in or applied to the surface.
  - (E) Resident-use hot water for lavatories and bathing units must be maintained between 100 degrees Fahrenheit and 120 degrees Fahrenheit.
  - (F) Towels, soap, and toilet tissue must be available at all times for individual resident use.
- (3) Resident living areas.
- (A) Social-diversional spaces such as living rooms, day rooms, lounges, or sunrooms must be provided and have appropriate furniture. A minimum of 120 square feet must be provided in at least one space regardless of the number of residents. This space must have exterior windows providing a view of the outside.
  - (B) The total space requirement for social-diversional areas must be 15 square feet per bed, with the 120 square foot minimum.

- (4) Resident dining areas.
  - (A) A dining area must be provided and have appropriate furnishings. A minimum of 120 square feet must be provided in at least one space, regardless of the number of residents. This space must have exterior windows providing a view of the outside.
  - (B) Access to a dining area from the resident living units or bedrooms must be covered.
  - (C) The total space requirement for a dining area must be 15 square feet per licensed bed, with the 120 square foot minimum.
  - (D) The total living-dining area(s) can be a single or interconnecting space with a minimum of 240 square feet of area.
  
- (5) Storage areas. The facility must provide sufficient separate storage spaces or areas for the following:
  - (A) records and office supplies;
  - (B) locked areas for medications and medical supplies. Poisons must be stored in a locked area and separate from all medications and preparation;
  - (C) equipment supplied by the facility for resident needs, such as beds, or mattresses;
  - (D) cleaning supplies and janitorial needs;
  - (E) food storage;
  - (F) clean linens and towels, if furnished by the facility;
  - (G) lawn and maintenance equipment, if needed; and
  - (H) soiled linen storage or holding room(s), if the facility furnishes linen.
  
- (6) Kitchen. The facility must have a kitchen or dietary area to meet the general food service needs of the residents. It must include provisions for the storage, refrigeration, preparation, and serving of food; for dish and utensil cleaning; and for refuse storage and removal. Exception: Food may be prepared off-site or in a separate building provided that the food is served at the proper temperature and transported in a sanitary manner.
  
- (7) Laundry.
  - (A) If linen is processed off the site, the following must be provided on the premises:
    - (i) a soiled linen holding room provided with adequate forced exhaust ducted to the exterior; and
    - (ii) a clean linen receiving, holding, inspection, sorting or folding, and storage room(s).
  - (B) Resident-use laundry, if provided, must utilize residential type washers and dryers. If more than three washers and three dryers are located in one space, the area must be one-hour fire separated or provided with sprinkler protection.