DEPARTMENT OF LABOR AND INDUSTRY

FACT SHEET

Assisted Living Group R-3 "dwelling unit" Compliance

2020 Minnesota State Building Code

(Revised February 2024)

Purpose

The purpose of this fact sheet is to provide guidance on converting assisted living facilities, **non-dementia care,** with five or fewer persons receiving care from an existing one- or two-family dwelling or townhouse classified as a Group R-3 "dwelling unit."

General

Converting a one- or two-family dwelling or townhouse into an assisted living facility, non-dementia care, with five or fewer persons receiving care requires compliance with the Minnesota State Building Code and Minnesota Department of Health requirements of Minnesota Statutes 144G.45.

Minnesota Rules 1305.0310.1 permits these facilities to be constructed under Minn. R. 1309 or Minn. R. 1305 as they are classified as a Group R-3 "dwelling unit" in accordance with Minn. R. Table 1305.0302.2.

Effective Aug. 1, 2023, the Minnesota State Legislature has added assisted living facilities and assisted living facilities with dementia care to the group of state-licensed facilities as defined in Minn. Stat. 326B.103, Subd. 13. As a result, all buildings including existing residential homes that are proposed to be licensed or are licensed for assisted living or assisted living with dementia care must obtain plan review and permits from the Minnesota Department of Labor and Industry (DLI), Construction Codes and Licensing Division, or a municipality with delegation agreement on their behalf pursuant to Minn. Stat. 326B.107.

Definitions

Change of occupancy. A change in the use of a building or a portion a building which results in one of the following:
1. A change of occupancy classification.
2. A change from one group to another group within an occupancy classification.
3. Any change in use within a group for which there is a change in application of the requirements of this code.

Certificate of occupancy

When a change of occupancy from an existing buildings to an assisted living facility or an assisted living facility with dementia care occurs, a new certificate of occupancy must be issued in accordance with Minn. R. 1300.0220 from DLI or a municipality with delegation agreement on their behalf. The certificate of occupancy only approves the change of occupancy for the purposes of complying as an assisted living facility pursuant to Minn. Stat. 326B.103, Subd. 13. It is not

intended to certify the building complies with any current building, plumbing, mechanical, or other codes including the Minnesota Department of Health requirements.

Compliance options

As Minn. R. 1305.0310.1 permits an R-3 "dwelling unit" to be constructed under Minn. R. 1309 or Minn. R. 1305, compliance can be demonstrated using the following provisions.

Compliance with Minn. R. 1309, the Minnesota Residential Code.

This compliance path will demonstrate how the existing building complies with the current Minnesota Residential Code for life safety features.

1) Life safety features:
   a) The building code analysis must identify how the building complies with the 2020 Minnesota Residential Code for life safety features such as garage and/or dwelling fire separation, emergency escape and rescue openings in compliance with Minn. R. 1309.0310.2.5.1, means of egress, smoke alarms, and carbon monoxide alarms.
2) Automatic sprinkler systems:
   a) Automatic sprinkler systems are only required when the fire area exceeds 4,500 square feet in accordance with Minn. R. 1305.0903.2.8.
3) Accessibility features:
   a) Accessibility features are not required as the Minnesota Residential Code does not address accessibility for these types of facilities.

Compliance with Minn. R. 1305, the Minnesota State Building Code.

This compliance path will demonstrate how the existing building complies with Minnesota State Building Code utilizing Minn. R. 1311, the Minnesota Conservation Code for Existing Buildings.

1) Chapter 10 compliance:
   a) The building code analysis must identify how the building complies with the 2020 Minnesota Conservation Code for Existing Buildings, Chapter 10, Change of Occupancy provisions.
2) Automatic sprinkler systems:
   a) Automatic sprinkler systems are only required when the fire area exceeds 4,500 square feet in accordance with Minn. R. 1305.0903.2.8 pursuant to IEBC, Section 1004.1.
3) Emergency escape and rescue openings:
   a) Minnesota Conservation Code for Existing Buildings, Section 1011.4.1 exception 7, permits an **existing** operable window with clear opening area not less than 4 square feet with a minimum opening height of 22 inches and minimum opening width of 20 inches to be accepted as an emergency escape and rescue opening. If the existing window does not comply with this provision a new emergency escape and rescue opening must be installed to comply with the Minnesota State Building Code Section 1030. **Note: Minnesota Department of Health will not license a bedroom that has an existing window with a clear opening of less than 4.5 square feet in accordance with the Minnesota State Fire Code pursuant to Minn. Stat. 144G.45.**
4) Accessibility features:
   a) Accessibility features are not required in existing buildings undergoing a change of occupancy in conjunction with alterations where the work area is 50% or less of the aggregate area of the building in compliance with Minnesota Accessibility Code, Section 305.4.

b) If the existing building is undergoing a change of occupancy in conjunction with an alteration that exceeds 50% of the aggregate area of the building, accessibility features must be provided in compliance with Minnesota Accessibility Code, Section 305.4.2 and 305.6.

Drawings and designs

Without exception, all documents are required to be certified by an architect licensed in Minnesota for the change of occupancy and/or proposed construction pursuant to Minn. Stat. 326.03 and Minn. R. 1800.5200. Applications for plan review and permitting must include a complete set of drawings and specifications that includes a building code analysis demonstrating compliance with the Minnesota State Building Code.