

FACT SHEET

Assisted Living Occupancy Classifications

2020 Minnesota State Building Code

(Revised February 2024)

Purpose

The purpose of this facts sheet is to clarify occupancy classifications with regards to assisted living in all of its various forms.

Background

The Minnesota Department of Labor and Industry (DLI), Construction Codes and Licensing Division, Building Plan Review Unit has maintained the Quick Reference Guide to Care Facilities in collaboration with the Minnesota Department of Health, Minnesota Department of Human Services, and the Minnesota Department of Public Safety. The term “assisted living” originated as a label assigned to an overlay of available non-medical services within an existing residential setting so that residents could remain in place. Assisted living is still used as a term in this manner. However, the term “assisted living” has also transitioned into a residential housing type where those requiring assistance with activities of daily living are concentrated into a housing type to achieve economies of scale. This concentration creates a more rigorous set of challenges with regards to fire and life safety. In addition to that, the aging in place model has been further pushed to accommodate persons experiencing varying levels of dementia resulting in even more fire and life safety challenges.

General

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 Minnesota Statutes 326B.103, Subdivision 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 DLI or a municipality with delegation agreement on their behalf pursuant to Minn. Stat. 326B.107.

The Assisted Living Licensure Law under Minn. Stat. 144G was passed by the 2019 Minnesota Legislature and updated as part of the Legislature's 2020 7th Special Session. The law established regulatory standards governing the provision of housing and services in assisted living facilities and assisted living facilities with dementia care to help ensure the health, safety, well-being and appropriate treatment of residents. Minn. Stat. 144G.10, Subd. 1 (a)(1) Beginning Aug. 1, 2021, no assisted living facility may operate in Minnesota unless it is licensed under this chapter.

Definitions

Change of occupancy. A change in the use of a building or a portion of 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 Minnesota Rules 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.

Occupancy classifications and regulation compliance

Assisted living facilities:

Assisted living facilities provide care of residents who may require limited verbal or physical assistance while responding to an emergency situation to complete building evacuation. The following occupancy classifications are supported by the Minnesota State Building Code based on the number of persons receiving care in the licensed facility:

- 1) Assisted living facilities occupancy classifications:
 - a) 17 or more persons receiving care – Group I-1 Condition 2 in accordance with IBC Section, 308.2.2.
 - b) 6-16 persons receiving care – Group R-4 Condition 2 in accordance with IBC Sections, 308.2.3 and 310.5.2.
 - c) 5 or fewer persons receiving care – Group R-3 “dwelling unit” in accordance with Minn. R. 1305.0310.1 and Minn. R. Table 1305.0302.2.
- 2) Regulation compliance:
 - a) Assisted living facilities with five or fewer persons receiving care must comply with the provisions of the 2020 Minnesota State Building Code and Minnesota Department of Health requirements of Minn. Stat. 144G.45.
 - b) Assisted living facilities with six or more persons receiving care must comply the provisions of the 2020 Minnesota State Building Code, Minnesota Department of Health requirements of Minn. Stat. 144G.45 including the 2018 Facility Guidelines Institute and 2018 NFPA Standard 101.

Assisted living facilities with dementia care:

Assisted living facility with dementia care provides specialized care of residents with Alzheimer’s disease or other dementias pursuant to Minn. Stat. 144G.08 Subd. 8 regulated by Minnesota Department of Health. The following occupancy classifications are supported by the Minnesota State Building Code and Minnesota Department of Health Statutory requirements:

- 1) Assisted living facilities with dementia care occupancy classifications:
 - a) Six or more persons receiving care – Group I-2 Condition 1 in accordance with IBC Section, 308.3.1.1.
 - b) Five or fewer persons receiving care – Group R-3 in accordance with IBC Section, 308.3.2.
- 2) Regulation compliance:
 - a) Assisted living facilities with dementia care regardless of number of persons receiving care must comply with the provisions of the 2020 Minnesota State Building Code, Minnesota Department of Health requirements of Minn. Stat. 144G.45 and 144G.81 including the 2018 Facility Guidelines Institute and 2018 NFPA Standard 101.

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.